

Southwest Transitway DEIS Comments

Comments Received from Businesses, Community Groups
and Non-Profit Organizations

Part 2 of 5

2012

DEC 27 2012

Comment #414

BY:



TWIN CITIES & WESTERN RAILROAD COMPANY

RESPONSE TO THE SOUTHWEST LIGHT RAIL
TRANSITWAY DRAFT ENVIRONMENTAL IMPACT
STATEMENT



TWIN CITIES & WESTERN RAILROAD COMPANY

December 26, 2012

2925 - 12th Street East
Glencoe, MN 55336
(320) 864-7200
FAX (320) 864-7220

Hennepin County
Housing, Community Works & Transit
Attn: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

RE: Response to the Southwest Transitway Draft Environmental Impact Statement

To Whom It May Concern:

The Twin Cities & Western Railroad (TC&W) appreciates the opportunity to review and respond to the Draft Environmental Impact Statement (DEIS) for the Southwest Light Rail Transitway (SLRT) Project. We recognize the effort that the authors have put into the study.

TC&W is a regional freight rail system that utilizes the tracks in St. Louis Park and the Kenilworth Corridor to transport a variety of products to and from south-central Minnesota and eastern South Dakota. The economical freight transportation offered by TC&W has enabled the communities we serve to create jobs, expand existing businesses and create new businesses in the region. Over the past 20 years, this economic footprint has generated over \$500 million in cumulative private sector investment in businesses, facilities and infrastructure in those communities.

TC&W takes very seriously its role as a force for economic development and job growth in Minnesota and South Dakota. We work closely with economic development agencies, chambers of commerce and governmental entities to ensure that our operations provide optimal benefit to the communities and customers we serve.

While the freight rail relocation recommended in the DEIS may seem as simple as removing a barn from the path of a new freeway, in reality the issue is much more complicated.

To configure rail tracks in a way that provides the safest and most efficient movement of freight requires special attention to the engineering and safety guidelines involved in the operation of trains that can exceed 7,200 feet in length and 10,000 tons in weight. TC&W believes that the re-route design described in the DEIS fails to meet recognized standards of engineering and safety.

TC&W's customers, cities and counties that we serve share our concerns about the safety and efficiency of the proposed reroute (see Appendixes F-H). Under federal regulations, these concerns must be addressed before any changes to existing freight rail tracks are approved. If the freight rail line and its shippers object on the grounds that proposed changes have the potential to negatively impact the availability, safety, efficiency and cost of existing freight rail service, the federal government is likely to deny the proposed reroute.

In addition to these considerations, the environmental implications of these changes must also be addressed. Moving freight by rail is one of the most fuel-efficient ways of transport. Our trains move a ton of freight 435 miles on a gallon of fuel, making us anywhere from four to ten times more fuel-efficient than the average truck. Any changes that increase our fuel usage, require the use of additional locomotives, or otherwise diminish our fuel efficiency are environmentally harmful as well as economically detrimental.

TC&W supports and shares the goals of the SLRT project—creating jobs, growing our economy and reducing greenhouse gas emissions. We are committed to working constructively with Hennepin County, and other jurisdictions, to find a route that enables us to meet all of these goals without sacrificing one to achieve another.

Toward that end, TC&W's response on the DEIS will address the specific problems inherent in the recommended re-route. We hope for a revised SLRT plan that does not sacrifice the safe, cost effective and fuel efficient freight rail transportation so important to Minnesota and South Dakota communities today and in the future.

In the attached document you will find an Executive Summary intended to summarize our response to the DEIS. We have also included our response to each of the 12 Chapters in the DEIS along with several appendices to provide validation, history and support to our response.

Sincerely,



Mark Wegner

President

Twin Cities & Western Railroad

Phone: 320-864-7204

E-mail: mwegner@tcwr.net

Website: www.tcwr.net

Enclosures

Table of Contents

TABLE OF CONTENTS

EXECUTIVE SUMMARY	2
INTRODUCTION: WHO IS TC&W?.....	5
TC&W's OBJECTIONS to the DEIS	8
COMMENTS ON CHAPTERS 1 – 12 OF THE DEIS	21
EXECUTIVE SUMMARY (ES)	21
CHAPTER 1	23
CHAPTER 2	25
CHAPTER 3	26
CHAPTER 4	30
CHAPTER 5	31
CHAPTER 6	32
CHAPTER 7	34
CHAPTER 8	35
CHAPTER 9	36
CHAPTER 10	37
CHAPTER 11	38
CHAPTER 12	41
CONCLUSION.....	42
APPENDICES TO TC&W'S RESPONSE TO THE DEIS.....	44

EXECUTIVE SUMMARY

The design of the MN&S re-route proposed in the Southwest Light Rail Transitway (SLRT) Draft Environmental Impact Statement (DEIS) would impose significant negative impacts on Twin Cities & Western Railroad Company (TC&W) to the detriment of the communities it serves in south central Minnesota and eastern South Dakota. It would also create significant public safety risks, as well as intense noise and vibration that would adversely affect residents of St. Louis Park.

TC&W supports the SLRT project so long as it is implemented in a way that preserves our ability to provide our customers with safe and efficient service at the same costs they now pay. Whether that means co-locating TC&W operations in the Kenilworth Corridor along with passenger rail or creating a re-route onto and off of the MN&S rail line, the costs for TC&W to safely and efficiently transport freight to and from St. Paul must be no greater than they are today.

As explained in detail in this response, the re-route design in the DEIS is defective:

- It contravenes accepted railroad engineering standards for curves and grades;
- It creates risks of derailments and crossing accidents, severe safety risks for pedestrians, motorists, residents of St. Louis Park, and railroad workers;
- It generates intense train noise and vibration where now there is little or none;
- It imposes increased operating costs on TC&W due to limits on train speed and the need for additional crew time, fuel, and equipment;
- It requires unusually large expenses for frequent rail and tie replacement and resurfacing;
- It eliminates side tracks used by TC&W for its daily operations of car staging, sorting, switching, and storage and the design does not contain any plan to replace that track space;
- It assumes erroneously that TC&W will not continue to use the Skunk Hollow Wye to serve customers in Savage;
- It entails a track “outage” which would impermissibly interfere with TC&W’s federal common carrier obligations.

TC&W has raised these issues several times, as has CP.

In September 2011, the Federal Transit Administration (FTA) approved the SLRT project entering preliminary engineering. The FTA letter required the Met Council to address certain issues, including:

- In consultation with the federal railroad administration (FRA), determine the design requirements for adequate safety features for street-grade crossings between the Southwest LRT line and existing freight rail tracks.
- Analyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned SLRT route, in the project's Environmental Impact Statement (EIS). Because the freight relocation is necessary for MC to be able to implement the Southwest LRT project as planned, the cost and scope of the freight line relocation must be included in the Southwest LRT project scope and budget, regardless of the funding sources that may be identified to pay for the work.
- Analyze the reconfiguration of the Canadian Pacific Railroad's freight tracks where they will be elevated over the Southwest LRT line and include the analysis in the Southwest LRT project's EIS and cost and scope. The planned flyover, as currently designed by MC, shows sharp curvature, steep grades, and insufficient clearances.

In a February 2012 meeting, Met Council staff said that the FTA letter had cleaned the slate of past discussions of freight rail options and that the Met Council was directed to study both co-existence of freight and light rail in the Kenilworth Corridor and a re-route of freight rail traffic onto the MN&S.

Despite the passage of sixteen months, the DEIS does not satisfy the FTA's directions. No changes have been made in the design. The DEIS contains the same deficient design first proposed over two years ago.

The consideration of the co-location alternative in the DEIS is perfunctory and incomplete, as there has been no explanation of a substantial reason for rejecting co-location and no meaningful analysis of the costs.

In the absence of a re-route design that is safe and in accord with accepted railroad engineering standards, and which does not harm TC&W's operations and

competitiveness, TC&W cannot support the required discontinuance proceeding before the United States Surface Transportation Board, which would be necessary to terminate TC&W's trackage rights over the Kenilworth Corridor.

TC&W's full response to the DEIS, which includes letters of support from a range of interested parties, is available online at www.tcwr.net/ResponsetoDEIS. Questions can be directed to TC&W president Mark Wegner at 320-864-7204.

INTRODUCTION: WHO IS TC&W?

Twin Cities & Western Railroad Company (TC&W) is a Minnesota-based freight railroad company that utilizes tracks in St. Louis Park and the Kenilworth Corridor to transport a wide variety of products to and from south central Minnesota and eastern South Dakota on a six and sometimes seven day a week basis. TC&W currently is the sole user of the freight rail tracks in the Kenilworth Corridor. In St. Paul, TC&W exchanges freight shipments with all four large North American railroads that serve the Twin Cities: Canadian Pacific (CP); Union Pacific (UP); Burlington Northern Railway (BNSF); and Canadian National (CN), and also with the Minnesota Commercial Railway (MNNR). Because of the connections with these other railroads, TC&W customers can access markets virtually anywhere in North America and the rest of the world, moving their products greater distances at less cost and using less fuel than would be the case using over-the-road trucks. We consider our railroad to be our customers' "Gateway to the World Markets".

The reach of shipments made via TC&W, by its customers, is extensive. For example, in the last two years, TC&W customers have shipped or received products to or from no less than thirty-nine U.S. states, seven Canadian provinces, and four Mexican states. Further, many tons of products shipped via TC&W ultimately are exported to locations around the world. When shipping via railroad, less fuel is used than with trucks. On average, a train is four times as fuel-efficient as a truck, which means rail provides a substantial benefit in terms of lower greenhouse gas emissions. Since a single train can carry the freight of several hundred trucks (a 110-car train is the equivalent of 440 trucks), a competitive TC&W helps reduce truck emissions, as well as highway congestion, wear and tear on highway infrastructure, road maintenance costs and highway accidents.

We are a regional freight rail system serving communities in Minnesota and South Dakota. TC&W has grown from 30 employees in 1991 to over 70 today. The communities TC&W serves have been able to create jobs, expand existing businesses and create new businesses because of the economical freight transportation TC&W offers. The economic footprint has led to a cumulative investment of private dollars in new businesses, expanding existing businesses and investment in freight infrastructure in the communities TC&W serves in excess of \$500 million dollars over the past 20 years.

TC&W takes its role of promoting economic development and job growth in Minnesota and South Dakota very seriously. TC&W works with economic development agencies,

chambers of commerce and governmental entities to promote job growth and has demonstrated success by preserving existing industries and fostering creation of new industries in Minnesota and South Dakota.

The rural areas TC&W serves provide jobs and economic vitality to a region that has traditionally been challenged. Recent private rail investments include:

- Granite Falls (MN)
 - Ethanol plant recently completed a loop track to increase its shipping capacity. This facility will load as many as 116 cars per unit train.
- Unit Grain Train Facilities built by farmer cooperatives:
 - Buffalo Lake (MN) and Brownston (MN)
 - It is conservatively estimated that these facilities will ship over 70 unit grain trains annually, consisting of 110 cars each. These trains will traverse the TC&W line westbound to be loaded and then eastbound to St. Paul, where the grain will be transferred to other railroads for delivery to markets and export facilities across the U.S., Canada and Mexico.

The proposed re-route is not solely an issue for TC&W. Rail shipments handled by TC&W move to and from a large number of domestic and international locations, but are not initiated by TC&W. These shipments are made by TC&W's customers. In TC&W's rural service territory, most shipments are made to and from cooperative agricultural facilities owned by Minnesota citizens *numbering in the thousands*. TC&W has a positive economic impact on Minnesota citizens, businesses and communities. Our railroad annually hauls *hundreds of millions of dollars'* worth of agricultural products, such as corn, soybeans, wheat, sugar, vegetables and ethanol from numerous locations all over the Midwest. In addition to these agriculture products, we haul non-farm hard goods, such as crushed rock, metals, plastics, fuel oil, machinery and lumber.

Whether they are shipping farm or non-farm goods, our customers' ability to remain competitive in the global market depends on our ability to maintain our existing cost and price structure. Keeping those customers competitive is absolutely essential to maintaining jobs, growth and economic vitality in the rural communities where they are located.

We believe the goal is to create a path for SLRT that does not sacrifice the cost and fuel-efficient rail freight transportation system for the communities that we serve. We likewise believe that the proposed re-route must not degrade safety for railroad workers and people in the communities TC&W serves.

The locally preferred alternative to re-route TC&W traffic, as designed in the DEIS, negatively impacts the communities along TC&W's railroad by increasing operating costs that would be passed on to our customers, jeopardizing their economic viability and negatively affecting the economic health of the communities where they operate. To prevent economic harm, TC&W's costs to operate and maintain its route to St. Paul must be maintained where they are today. This is crucial to the communities in Minnesota and South Dakota because they depend on a cost and fuel-efficient freight rail system today, tomorrow and into the future. In addition to the adverse impact the proposed re-route would have on our operating and maintenance costs, the engineering flaws in the planned route would also negatively affect the safety profile of TC&W's operations in the affected area, which will impose significant and unacceptable societal costs on TC&W, our customers and the local communities through which we operate.

TC&W's OBJECTIONS to the DEIS

The freight rail re-route design presented in the DEIS is not acceptable to TC&W. Our objections fall into these major areas:

- Engineering flaws
- Safety
- Environment -noise and vibration
- Failure to comply with FTA and MnDOT directives
- Operations/maintenance/efficiency/costs
- Loss of track capacity
- Track “outage” during construction
- Inadequate analysis of the costs of a re-route
- Lack of analysis of the co-location alternative

TC&W has consistently emphasized to Hennepin County and the Met Council that the gradients and curvature of the proposed re-route have to be comparable to the grades and curvature of TC&W's existing Kenilworth Corridor route so safety and efficiency will not be degraded.

The re-route design of the DEIS includes a new northbound track connection from the CP's Bass Lake Spur onto the CP's MN&S line, a new track connection from the MN&S onto BNSF's Wayzata subdivision through the “Iron Triangle,” and an upgrade of the MN&S track. It includes four curves, each with a different grade. A map is attached in Appendix A, page 5 with the curves shown and numbered.

The first curve from the Bass Lake Spur to the MN&S is entirely new. It begins with an elevated track on a “retained fill structure” on the south side of the Bass Lake Spur track, transitions onto a “bridge structure,” which then curves north and crosses over the Bass Lake Spur, the planned SLRT track, and Highway 7 and onto the MN&S. (Appendix H to DEIS, MN&S Freight Rail Report at p. 12.) The second and third curves are existing curves on the MN&S. The fourth curve is a new connection, taking the train north and east from the MN&S through the Iron Triangle onto the BNSF Wayzata subdivision.

Engineering Flaws

TC&W engaged a professional engineer with extensive freight railroad experience, Carey Bretsch of Civil Design Inc., to review the re-route design contained in the DEIS. In his

report, a copy of which is attached as Appendix A, Mr. Bretsch highlights the fact that the design in the DEIS “places sharp curves, reversing curves and steep grades in a mainline freight railroad.” Appendix A, p. 4. He concludes, for the reasons summarized below, that the proposed re-route design “imposes restrictions that are unreasonable for the operating railroad” and that it “would draw criticism from any railroad wherever presented.” Appendix A, p. 4. “All guiding specifications and design guidelines have been violated by this proposed plan.” Appendix A, p. 4. This conclusion is based primarily on the grades and curves in the route, which exceed accepted railroad engineering standards and present substantial safety concerns.

Grain, coal and ethanol trains today are frequently unit trains with 80 to 123 cars and three or more locomotives. Train length can exceed 7,800 feet. Because of the length of trains, the re-route design in the DEIS would require a unit train to go up grades and curve through the first three horizontal curves and six undulating vertical curves, all at the same time. The difficulties would be cumulative. “The dynamics of the train will be very difficult for the crew to control and the potential for derailment is high.” Appendix A, p. 2.

The design ignores accepted railroad engineering standards. The BNSF Design Guidelines for vertical curves (i.e., grades) say that the rate of change should not be more than 0.10 feet per station in sags (dips in the track) and 0.20 feet per station on summits (high points in the track). Appendix A, p. 1. The rate of change of the design in the DEIS is 0.59 feet per station, almost three times greater than the maximum allowed by the BNSF Guidelines. Appendix A, p. 1. The reason for the BNSF Guidelines controlling the rate of vertical change “is to avoid the cars from uncoupling. As one car is coming up a grade while the adjacent car is going down a grade, the coupling between the cars can . . . unhook.” Appendix A, p. 1

When there is both a grade and a curve, the two act together to increase the effort needed to pull the train. American Railway Engineering & Maintenance of Way Association (AREMA) provides a formula to calculate the “compensated grade.” A westbound train going into curve No. 1 must overcome a grade of 1.5% while winding around an 8 degree curve. The grade and curve are equivalent to a compensated grade of 1.82% on a straight track. Appendix A, p. 2. This compensated grade is more than 80 percent greater than the maximum compensated grade on the Kenilworth Corridor track of 1.01%.

The series of reversing curves also violates accepted railroad engineering standards. The 2003 AREMA “Practical Guide to Railway Engineering” says “reversing curves should be avoided at all costs.” Appendix A, p. 2. Reversing curves create a “couple effect” which “greatly increases the likelihood of the train buckling and thus a derailment.” *Id.*

Mr. Bretsch points out that curve No. 1 takes the route over the Bass Lake Spur and the bridge over Highway 7. “Placing an 8 degree curve on a bridge with a steep grade on either side . . . introduces enough of a safety concern in itself to dismiss the current proposed plan.” Appendix A, p. 4. In view of these significant design flaws, Mr. Bretsch concludes that the safety concerns presented by the DEIS re-route should “bring the designers back to the drawing board.” Appendix A, p. 4. The safety risks threaten both railroad workers and the general public.

At Page 3-132 of the DEIS, the last paragraph says the curvature of the bridge structures and grade on the bridge structures “would be engineered and constructed to meet stringent railway engineering requirements to ensure safe operation.” Despite the passage of over two years, that has not been done. Doing so will not be a simple matter, but will require a much larger footprint for the re-route.

Crossing Safety Issues

Re-routing TC&W trains from the Bass Lake Spur onto the MN&S will bring trains close to the Saint Louis Park High School. The high school abuts the MN&S track at the Dakota Avenue South crossing. The school building is just over 100 feet from the MN&S track. Just across the MN&S track from the high school is a McDonalds. As a result, there is considerable pedestrian and vehicle traffic at the Dakota Avenue South crossing. This is in marked contrast to the present Kenilworth route which has no similar location along it. The DEIS design will bring freight train traffic into close proximity to pedestrians and vehicle traffic to and from the high school. The safety risks are obvious, especially given the age of high school students.

For decades, trains have been required to blow their horns at road crossings. To reduce noise from trains on the MN&S, the DEIS says that there would be a “quiet zone” which would “eliminate severe noise impacts throughout the corridor by removing the freight locomotive horn noise.” DEIS P. ES-11. However, **quiet zones adversely affect safety** because they remove regular locomotive horn blowing at crossings. The DEIS does not mention this problem.

There have been several studies for the Federal Railroad Administration (FRA) analyzing the effects of quiet zones on crossing safety. The first report in 1995 considered collisions between January 1988 and June 30, 1994. “FRA found that whistle ban crossings averaged **84 percent more collisions** than similar crossings with no bans. There were 948 collisions at whistle ban crossings during the period studied. Sixty two people died in those collisions and 308 were injured. Collisions occurred on every railroad with crossings subject to whistle bans, and in 25 of the 27 states where bans were in effect.”¹ The report did an analysis of the accidents by type of crossings and concluded, “On average, the risk of a collision was found to be 84 percent greater at crossings where train horns were silenced.” *Id.* at p. 2.

The next FRA study, of the effects of banning train horns, excluded pedestrian accidents and used data from 1992 through 1996. It considered crossings with gates and crossings without gates. “The analysis showed that an average of **62 percent more collisions** occurred at whistle ban crossings equipped with gates than at similar crossings across the nation without bans.” *Id.* at p. 3 (emphasis added). As for the crossings without gates, “The updated analysis also indicated that whistle ban crossings without gates, but equipped with flashing light signals and/or other types of active warning devices, on average, experienced **119 percent more collisions** than similar crossings without whistle bans. This finding made it clear that the train horn was highly effective in deterring collisions at crossings equipped with active devices, but without gates.” *Id.* (emphasis added).

A 2003 report which studied five additional years of accident data concluded that **“nationwide, whistle bans were associated with an increase in grade crossing accidents.”**²

The use of iPod or iPhone headphones and constant cell phone voice and texting is commonplace, which means there will be students crossing the MN&S track who will be distracted or unable to hear approaching trains, especially if those trains do not blow their horns because of the “quiet zones.” Trains today are quieter and give less advance notice of their approach; the use of long, welded rail has eliminated the “clackety-clack” of train wheels. These factors intensify the safety risks to pedestrians.

¹ Updated Analysis of Train Whistle Bans, available at <https://www.fra.dot.gov/eLib/Details/L02686> (January 2000) at p. 1 (emphasis added).

² P. Zadora, Analysis of the Safety Impact of Train Horns Bans at Highway-Rail Grade Crossings: An Update Using 1997-2001 Data, available at <https://www.fra.dot.gov/Page/P0104> at p. 9 (emphasis added).

In its September 2011 letter, the Federal Transit Administration (FTA) approved the SLRT entering the preliminary engineering phase. The FTA letter required that the Met Council address certain issues, including, “In consultation with the Federal Railroad Administration (FRA), determine the design requirements for adequate safety features for street-grade crossings between the SLRT line and existing freight rail tracks.” Despite the passage of almost sixteen months, this has not been done. The DEIS does not contain any new or additional analysis or design requirements to foster pedestrian and vehicle safety at crossings, which was required by the FTA. Minnesota Statutes Section 116D.02, subd. 2(2) specifically refers to safety as a state policy that must be considered in the EIS process. At a minimum, the first part of preliminary engineering should include a formal diagnostic team evaluation of the proposed quiet zones with representatives of all interested parties including MnDOT, FRA, the City of St. Louis Park, CP, and TC&W. Such an evaluation should also be done if the co-location alternative is to be built.

Derailment Safety Issues

Mr. Bretsch’s engineering review raises additional safety issues created by the re-route design. Derailments can result in injury or death of the train crew as well as pedestrians, vehicle occupants, and people in residences and businesses along the track. “When the curve radius and grade is severe, the potential for accidents is increased. This is not desirable in an urban area and certainly less than desirable from a railroad’s standpoint.” Appendix A, p. 2. If empty and loaded cars are interspersed (which commonly occurs in railroad freight operations), “there is concern that the loaded cars would pull the empty cars off the track on the inside of the curve. This is called a ‘straight lining the curve’ derailment.” Appendix A, p. 4.

The engineering review points out that failure to maintain super-elevation (with the inside rail of the curve lower than the outside rail) “creates a hazardous condition where cars could overturn on the outside of the curve. Additionally, having a sharp curve on a bridge introduces safety issues related to public and railroad safety.” Appendix A, p. 3.

The “bridge structure” that the DEIS proposes to build to take trains off the Bass Lake Spur, over the SLRT track and Highway 7, and onto the MN&S (curve no. 1) presents a special problem. The structure would be built over ground which is part of the Golden Auto/National Lead Superfund site. Page 4-30 of the DEIS refers to the *MN&S Freight Rail Study*. That study says the Golden Auto/National Lead site (at the northwest quadrant of the intersection of the Bass Lake Spur and the MN&S) was de-listed as a National Priority Site due largely to the containment of contaminated materials beneath

an asphalt cap and that the construction of a rail structure across the Golden Auto site would alter the asphalt cap and could disturb contaminants. The DEIS fails to consider whether, in the event of a severe derailment, the Golden Auto site could be impacted.

Increased Noise and Vibration

The DEIS describes only the noise due to train horn (DEIS P. ES-11). It fails to mention the noise of steel train wheel flanges squealing on steel rails or of locomotives accelerating to haul 20,000,000 pound trains up the curved grade of the “bridge structure” to the top of the MN&S. The DEIS contains no analysis or discussion of the noise and vibration that will affect residents of St. Louis Park as four 4400 HP, 400,000 lb. locomotives pull a train with 110 loaded grain cars up the “bridge structure” and over the Bass Lake Spur onto the MN&S. Moreover, because of the close proximity of residences and the high school, trains may blow their horns more than presently anticipated. Minnesota Statutes Section 116D.02, subd. 17 specifically refers to the need to consider minimizing noise in the EIS process. The re-route design will create severe noise and vibration where there is little or none now.

Failure to Comply with FTA Directions

The September 2011 letter from the FTA required the Met Council to “analyze the reconfiguration of the Canadian Pacific Railroad’s freight tracks where they will be elevated over the Southwest LRT line and include the analysis in the SLRT project’s EIS and cost and scope. The planned flyover, as currently designed by MC, shows sharp curvature, steep grades, and insufficient clearances.”

The DEIS does not comply with the FTA’s directions. No changes have been made in the design from that first unveiled over two years ago. It contains the same sharp curvatures, steep grades, and insufficient clearances. The DEIS fails to discuss, much less analyze, the maintenance issues of the design which were raised by TC&W, CP, and the FTA. See Appendices C and D. In its comments to the Environmental Assessment Worksheet (EAW) in June 2011, CP said it was largely in agreement with TC&W’s comments and that the design was “operationally deficient.” See Appendix D. It said that the EAW failed to recognize the costs of operating and maintaining the new track, signals, and connection would be much more expensive and that CP had not agreed to be responsible to own, operate, or maintain the new structures and track.³

³ In the Conceptual Engineering Drawings in Appendix F by Kimley-Horn dated April 12, 2011, the “track typicals” at p. 24 and 25 of 31, state, “DECK PLATE GIRDER (DPG) BRIDGE SECTION SHOWN FOR ILLUSTRATION PURPOSES. BRIDGE SECTION DESIGN NOT COMPLETED.”

The engineering review, in Appendix A, contains specific information on the costly additional maintenance that would be required if this design is built. “Rail life is severely impacted on any curve over two degrees and the useful life is shortened based on tonnage and speed. . . . [R]eplacement of the rails and ties due to the curve will need to be frequent.” Appendix A, p. 2-3. The cost of replacing rails and ties would be \$150,000 to \$200,000 each time in today’s dollars. In addition to frequent replacement of ties and rails, in order to comply with FRA safety requirements for curves, resurfacing and alignment of the rails will be required 3 to 4 times a year. Appendix A, p. 3.

Failure to Comply with MnDOT Directives

In June 2011, the MnDOT reviewed the objections of TC&W and CP to the EAW. MnDOT said it “assumed . . . that concurrence will be reached between all parties . . . answering specific design and operational issues.” Findings of Fact and Conclusions, Minnesota Department of Transportation, June 30, 2011, p. 18-19. “Concerns of grade, curvature, maintenance, ownership, operational considerations, etc. will be addressed to the satisfaction of all parties during the design review process” MnDOT continued, “Given the necessity of all parties to concur on an acceptable and workable final design prior to implementing operating agreements, regulatory filings, and the mutually desired advancement of contiguous highway and transit projects . . . this appears to be an inescapable requirement.”

While MnDOT determined that finding a design acceptable to the railroads was an “inescapable requirement,” Hennepin County and Met Council have not made a single change in the design despite the passage of almost a year and a half. Moreover, the staff has not had a single meeting with TC&W to discuss substantively the problems created by the re-route design or what changes they intend to make.

Effects on Operations

The engineering review describes only some of the deleterious effects of the design on railroad operations. They all would take more crew time and fuel, and include:

- Limits on train speed
- Additional running time
- Additional locomotives may be needed
- Distributed power may be needed
- Long trains may have to be broken up and doubled, with only some of the cars taken at a time. If this is necessary, half of the cars will have to be uncoupled

and left standing on the Bass Lake Spur while the locomotives take the first group of cars up to the BNSF Wayzata Sub. There, a new set of sidings will be needed (which are not included in the present design) so the locomotives can detach the cars, run back around them, and go back down to pick up the cars left sitting on the Bass Lake Spur. Once those cars are pulled up to the BNSF, the locomotives will have to uncouple the second set of cars, go onto the siding and get back to the front of the first group of cars, and then reassemble the entire train. In cold weather, it may take several hours to build up sufficient air pressure for the brakes through the whole train before it can move out onto the BNSF Wayzata Sub.

- Train assembly will have to be changed at many stations along TC&W's line to have all the loaded cars together with the empties following. This would require immense amounts of additional crew time and fuel. Additional yard tracks may be needed at various points to break up trains, shuffle cars, and reassemble the trains.

Loss of Track Capacity

The proposed design includes building an elevated "retained fill structure" on the south side of the Bass Lake Spur leading to a "bridge structure" to cross over the Bass Lake Spur and the proposed LRT track. The "retained fill structure" would require retaining walls on each side. Building this structure would eliminate more than 12,000 feet of track space (space for 192 cars) along the Bass Lake Spur and other yard tracks used by TC&W for staging, sorting, switching and storing railcars. See Appendix B. These tracks are an integral part of TC&W's daily operations. While the tracks are owned by CP, TC&W has trackage rights to use them. The DEIS does not mention this issue and does not have any plan or budget to build the track space elsewhere. The nearest location where TC&W has large sidetracks is at Cologne and Bongards, over 35 miles west. Those tracks, however, are already in use for staging and switching cars and are not available for the car staging, sorting, switching, and storage that currently takes place along the Bass Lake Spur.

The loss of track space ultimately reduces TC&W's capacity to handle both its existing traffic and additional growth, thus increasing freight costs and constraining its customers' growth. This will result in more trucks on highways and associated adverse environmental effects. Car storage is an important revenue source for TC&W, and the DEIS contains no promise or plan to replace the track space. Replacing the lost track space will be expensive and require additional land beyond that shown in the DEIS. In

any event, the Surface Transportation Board has invalidated governmental takings of yard tracks and extra-width railroad properties where the affected railroad can show such properties are needed in connection with common carrier freight operations.

Skunk Hollow Wye

The DEIS appears to assume that the Skunk Hollow Wye connection to the MN&S would be eliminated. It says that LRT 3A-1 (co-location) would require freight trains to “navigate the cumbersome and noisy Skunk Lake Hollow switching Wye to complete this maneuver.” (P. 11-12) the inference is that the proposed design somehow eliminates the Skunk Hollow connection. Yet none of the “conceptual” engineering plans included in the DEIS show any alternative to the Skunk Hollow connection. TC&W needs to continue to use the Skunk Hollow connection to reach customers in Savage. TC&W will also continue to need track space for at least 75 cars east of the Wye to be able to effectively move cars on and off the Skunk Hollow connection. This means the railroad bridge over Highway 100 will have to be able to handle both freight rail and the proposed SLRT tracks.

Track “Outage” during Construction

The DEIS says there would be a “track outage” of one to four weeks and that TC&W trains would be re-routed. (P. 6-61) However, the DEIS does not describe any alternate routes and TC&W is not aware of any. The DEIS does say that “if the railroads find the duration of the track outage unacceptable, it may be necessary to construct a temporary alignment and bridge structure.” No details are given as to what would be the “temporary alignment” or the “bridge structure.” A track outage requiring TC&W to close down would impermissibly interfere with the federal common carrier obligations of TC&W.

Inadequate Analysis of Costs of Re-routing Freight

The FTA’s September 2011 letter required the Met Council to “analyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned Southwest LRT route, in the project’s Environmental Impact Statement (EIS). Because the freight relocation is necessary for MC to be able to implement the Southwest LRT project as planned, the cost and scope of the freight line relocation must be included in the Southwest LRT project scope and budget, regardless of the funding sources that may be identified to pay for the work.”

The DEIS appears to say that the re-route with its defective design would cost almost \$23 million more than having light rail and freight rail together in the Kenilworth Corridor.⁴ However, the DEIS does not attempt to price a safe and efficient re-route design that would eliminate the increased grades and curvature and replace the lost track capacity. Such a design will require a larger footprint with additional expenses for land acquisition and track construction. An adequate design for a re-route onto the MN&S with reduced grades and curvature will require more land, affect more streets, traffic, businesses, and people, and cost substantially more. By not preparing and pricing an adequate design with detailed cost estimates, the DEIS did not comply with the FTA's directions. The cost of a safe, adequate design is likely to be much more than \$23 million.

The DEIS does not say what has been assumed as the cost of the "quiet zones" it says will be built.

The Co-Location Alternative

In a February 2012 meeting with TC&W, Met Council staff said that the FTA letter had cleaned the slate of past discussions of freight rail options and that the Met Council was directed to study both co-existence of freight and light rail in the Kenilworth Corridor and a re-route of freight rail traffic onto the MN&S. See DEIS P. 2-9. Minnesota Statutes Section 116D.04, subd. 2(a) also requires that alternatives be studied.

The DEIS discusses the co-location alternative, but does not contain a meaningful analysis of what would be the difference in costs. The DEIS appears to indicate that the re-route onto the MN&S would cost about \$22.9 million more than the co-location alternative.⁵ A previous estimate of the cost of the re-route using the present defective design was \$76.7 million.⁶ Thus, the DEIS indicates that allowing the freight rail to

⁴ The capital costs of the entire Southwest LRT with a re-route onto the MN&S (LRT 3A) are stated as \$1,194,636,000 and the capital costs of the entire project with the co-location alternative (LRT 3A-1) are stated as \$1,171,770,000 (after correcting for the subsequently-discovered \$100 million error). (P.8-11) The DEIS thus appears to say that the re-route of freight onto the MN&S would cost about \$22.9 million more than the co-location alternative. The DEIS does not give any details as to how the cost of the re-route was calculated. It says the cost estimates for the alternatives were developed based upon the advanced conceptual engineering plans of Appendix F. (P. 8-1) Those plans, however, are only drawings and do not contain any cost estimates. The DEIS also says the plans were "described in Technical Memorandum No. 7A dated September 29, 2009 which may be viewed at southwesttransitway.org." (P. 8-1) However, the referenced web site does not display or contain a link to such a memorandum. The DEIS also says unit costs for freight rail were obtained from the MN&S Freight Rail Study by Kimley-Horn, but that document is a one page summary estimate showing total capital costs of \$76.7 million. See, www.mnsrailstudy.org/key-documents, linked as "MN&S Freight Rail Study Capital Cost Estimate." The DEIS does not cite any study by Kimley-Horn of the costs of the co-location alternative.

⁵ See footnote 4.

⁶ See, www.mnsrailstudy.org/key-documents, linked as "MN&S Freight Rail Study Capital Cost Estimate." The \$76.7 million estimate is a one-page summary without any explanation as to how it was determined.

remain in the Kenilworth Corridor would cost about \$54 million. The DEIS does not explain why it would cost \$54 million to have the freight rail remain in the Kenilworth Corridor where it is today. Even if the entire Kenilworth track is taken up and re-laid on a new track bed, the Kenilworth track is only 2.5 miles long. Spending \$54 million would work out to be around \$21.6 million per mile, an astonishing cost. The DEIS does not contain an explanation or calculation comparing the costs of the co-location alternative to the costs of the MN&S re-route. In addition, the DEIS does not consider whether safety, noise and vibration impacts, as well as costs, would be less with the co-location alternative. (See Minnesota Statutes Section 116D.04, subd. 6).

The DEIS purports to consider and reject the co-location alternative for two reasons: (1) co-location would require 0.81 acres of property owned by the Minneapolis Parks and Recreation Board; and (2) co-location would fail to “provide a direct connection between the CP Bass Lake Spur and the CP MN&S which would satisfy the need for the safe, efficient and economical connection to St. Paul.” (P. ES-21) Neither reason is well grounded. As to the 0.81 acres, the DEIS fails to say exactly where that land is located or even why it must be acquired. If the area is the 0.81 acres shown on the map at page 7-16, that land is inside a triangle formed by the meeting of the BNSF Wayzata Sub and the Kenilworth Corridor tracks. There is no explanation as to what would be done to that 0.81 acres in the co-location alternative (LRT 3A-1) that is not being done today. The land has no active park or recreational use. The Minneapolis Park Board may welcome the opportunity to sell it.

The second reason stated for rejecting co-location is factually incorrect. TC&W already has a direct connection with the BNSF via the Kenilworth Corridor track which allows TC&W to reach St. Paul. TC&W has been using the Kenilworth Corridor track since 1998. As explained above, the re-route design in the DEIS would create a route that would be less “safe, efficient and economical.”

Summary

The DEIS contains no recognition or analysis of the safety risks of the present design. It ignores the noise and vibration that will be heard and felt when locomotives pull long trains through the four curves over the Bass Lake Spur onto the MN&S and then onto the BNSF Wayzata Sub. The DEIS does not comply with the FTA’s directions in its September 2011 letter that the DEIS must include an analysis of the “reconfiguration” of the “flyover” of CP’s Bass Lake Spur onto the MN&S. The DEIS ignores the directions of MnDOT that finding a design acceptable to the railroads is an “inescapable

requirement.” Despite the passing of almost 16 months since the FTA’s letter, there have been no changes to the design. Nor does the DEIS analyze the impacts of relocating TC&W’s traffic, which include increased safety risks, unusually large maintenance expenses, and operational problems that will handicap and make TC&W operations more difficult and expensive. Nor does the DEIS solve the elimination of the Bass Lake Spur tracks, potential track outages, and the Skunk Hollow issues. The DEIS fails to accurately and appropriately analyze the co-location alternative, which was specifically directed by the FTA.

Minnesota Statutes Section 116D.04, subd. 2(f) requires that an EIS consider permitting issues; the DEIS does not consider how permitting can be accomplished in view of the federal regulatory issues raised by the DEIS. The U.S. Surface Transportation Board (STB) is the successor to the Interstate Commerce Commission and has exclusive jurisdiction over common carrier rail operations (and related railroad property), including trackage rights.⁷ See 49 U.S.C. § 10501(b), 10102(9)(A). This jurisdiction protects the public against trackage rights being unnecessarily discontinued, interrupted or obstructed. Accordingly, trackage rights cannot be withdrawn, terminated or limited once they are granted, without the authority of the STB, **even if the governing trackage rights agreement is expired or terminated.** To obtain the appropriate STB discontinuance authority, the party desiring to terminate the trackage rights must initiate a discontinuance proceeding before the STB. In such a proceeding, that party would bear the burden of proving that the present or future public convenience and necessity permit such a discontinuance, and the STB would consider, among other factors, the impact of such a discontinuance on the trackage rights operator and the shippers. In this respect, a rail carrier providing common carrier operations via trackage rights has the same rights and obligations to continue to provide such rail operations as it would have if the carrier owned or leased the rail line. In the absence of a safe and adequate design for a re-route, TC&W will oppose any discontinuance or relocation proceeding brought before the STB.

The DEIS incorporates an unsafe, operationally defective design with increased operating costs and unusually large maintenance expenses due to the increased grades and curvature compared to the existing Kenilworth Corridor. The design does not comply with recognized engineering and safety standards. The design needs to be revised because it does not satisfy the requirements of Minnesota Statutes Section 116D nor the

⁷ The Interstate Commerce Commission Termination Act (ICCTA) eliminated state and local authority over railroads and granted sole regulatory power to the Surface Transportation Board. It has exclusive jurisdiction over railroads and their property. 49 U.S.C. §§ 10501(b), 10102(9)(A). Remedies under ICCTA are exclusive and preempt other Federal and state regulations. 49 U.S.C. § 10501(b).

requirements of the FTA as set forth in the September 2011 letter. A safe and properly engineered design must be created, and it will need a revised analysis of the likely costs and environmental impacts.

Executive Summary (ES)

COMMENTS ON CHAPTERS 1 – 12 OF THE DEIS

EXECUTIVE SUMMARY (ES)

ES – Page ES-7: In the second paragraph of LRT 3A-1, the statement is made that “The existing freight tracks along the CP Bass Lake Spur and the HCRRA Cedar Lake Junction (locally referred to as the Kenilworth tracks) would need to be reconstructed to meet BNSF design standards for clearance requirements.” BNSF’s jurisdiction ends approximately 100 feet south of their Wayzata sub, so this statement is incorrect and misleading.

ES – Page ES-11: The only noise impacts described under the freight rail are train horn noise. There is no acknowledgement of steel wheel flange squeal on the rails or the noise of locomotives accelerating to hoist tonnage up the grade to the top of the MN&S.

ES – Page ES-16: The table under Property Acquisitions describes 125 parcels of land to be acquired under LRT 3A, and 175 parcels of land to be acquired under LRT 3A-1 (co-location). Details should be provided to allow for proper response.

ES – Page ES-20: Under LRT 3A, the third bullet point asserts that a direct connection from the Bass Lake Spur to the MN&S and from the MN&S to the BNSF would allow faster and more efficient train movements. TC&W has yet to see a re-route design that would make this assertion true. Logically the distance is further than the existing route and pulling tonnage up a steeper grades and tighter curves than the existing route is actually less efficient, not more so.

ES – Page ES-20: Under LRT 3A-1, it refers to “high construction related impacts because of the complex construction staging required to rebuild the freight rail tracks.” What are the “complex construction staging” facts, scenarios, and assumptions that support this statement? To the degree the assumptions are based on an erroneous perception that the BNSF has jurisdiction over this track, this assertion is misleading. TC&W operates on the Kenilworth Corridor tracks and does not believe the freight rail tracks need to be rebuilt.

ES – Page ES-21: In the first bullet point on the page, the park land is not specifically identified and the “need” to acquire it is not explained. If the area being considered is the 0.81 acres shown on the map at page 7-16, that land is inside the triangle formed by the meeting of the BNSF Wayzata Sub and the Kenilworth Corridor tracks. There is no

explanation as to what would be done to that 0.81 acres in the co-location alternative (LRT 3A-1) that is not being done today. The land has no active park or recreational use. The Minneapolis Park Board may well welcome the opportunity to sell it.

ES – Page ES-21: In the second bullet point on the page, “Failure to provide a direct connection...” This statement ignores the plain, uncontestable fact that there already is a direct connection with the BNSF via the Kenilworth Corridor track that allows TC&W to reach St. Paul, a connection TC&W has been using since 1998. This is not a reason to reject the co-location alternative.

ES – Page ES-21: In the third bullet point, “There is no feasible and prudent alternative...” The current re-route design is not feasible or prudent, and therefore unacceptable. Until an acceptable re-reroute design is created, it cannot be determined if the re-route is feasible and prudent.

ES – Page ES-22: In the second paragraph under the “Environmentally Preferred Alternative” bullet point, the concluding sentence of that paragraph asserts that LRT 3-A “improves the regional freight rail network.” This assertion is false, given the fact that the primary regional freight carrier, TC&W, has found that alternative unacceptable.

CHAPTER 1

Page 1-4: It states that “On August 22, 2012, FTA invited the STB to become a cooperating agency.” What does this mean, and what significance does it have? The STB is the sole regulator of railroads, and the DEIS does not include any discussion recognizing the STB’s authority.

Page 1-8: It states that HCRRA amended the Scoping Summary Report to include the freight rail relocation to the MN&S project as part of the build alternatives. Why is the Scoping Summary Report not included in the attachments to the DEIS?

Pages 1-11, 1-12: The assertion is made that a TC&W interchange with CP in the Humboldt Yard as a result of a direct connection would be far preferable to TC&W than the “extra distance” to St. Paul. This assertion completely ignores commercial realities. As a matter of hard fact, ninety percent (90%) of the freight rail traffic interchanged to the CP in St. Paul goes to eastern or southern destinations in the United States. TC&W is compensated for bringing the cars to St. Paul. This statement also ignores the fact that St. Paul is CP’s primary rail yard in the Twin Cities. This means that cars interchanged in St. Paul are likely to be sorted and on their way to destinations within hours of arrival in the Twin Cities versus Humboldt Yard, where it may take an extra day before the cars leave the Twin Cities for their destination. These facts are plain and uncontested. The authors of this section did not communicate with TC&W on this topic.

Page 1-12: The first full paragraph attempts to describe freight rail operations without consulting with the freight rail carriers. The BNSF is a privately owned freight line. BNSF’s policy towards putting passenger trains on its freight lines has been to protect the capacity of its freight rail lines for present and future freight rail growth. Therefore, the assertion that a railroad such as BNSF would not have the position that passenger rail trains on freight rails will not diminish current and future freight rail capacity is false. It also ignores that TC&W’s primary freight rail exchanges occur in St. Paul, and going to St. Paul via the current Kenilworth route is more efficient than detouring north to Crystal and then heading east and south to get to St. Paul.

Page 1-12: On the first bullet point, access to Savage would not be improved because the direct connection is northbound and a side track would be needed to enable movement of the locomotives (such activity requires additional time and increases costs) from the north end of the train to the south end before the train could proceed south to Savage.

Page 1-12: In the second bullet point, access to other locations on the east side of the metropolitan area would not be improved.

Page 1-14: On Goal 6, TC&W endorses these goals, but the current design does not meet them.

CHAPTER 2

Page 2-7: On Table 2.1-2, Alternative 3A-1 is not shown on the chart.

Pages 2-8, 2-9: It refers to the “preferred location” for the freight rail and the “preferred permanent home” for freight rail operations. Which entity has this preference? The TC&W has remained neutral in its position on whether it stays in the Kenilworth Corridor or an alternative route via the MN&S, as long as the costs to operate and maintain remain the same as they are today. TC&W is not the entity that has this preference. The entity should be disclosed.

Page 2-16: Table 2.1-3--Alternative 3A-1 is not shown on the chart.

Pages 2-19, 2-20: There is discussion about existing freight operations but no discussion of freight rail growth. Nationwide, freight rail is projected to increase 35% over the next 20 years, and locally three of TC&W’s customers invested in their facilities in 2012 to enable unit train capacity which will add an additional estimated 70+ loaded and 70+ empty trains a year in addition to the current train traffic identified in this section. The SLRT must be designed and developed in such a way that the future growth of commercial rail freight activity is not limited or inhibited.

Page 2-27: The conceptual engineering for the freight rail re-reroute prepared by Kimley-Horn and Associates and presented to TC&W in a meeting with Hennepin County in late 2010 was rejected by TC&W because the grades were too steep and the curves too sharp. There is no explanation why this defective design has not been revised over two years later.

Page 2-41: In the second paragraph it refers to the necessity to reconstruct the existing freight tracks along the CP Bass Lake Spur and the HCRRA Cedar Lake Junction (the Kenilworth tracks) to meet BNSF design standards. These tracks function perfectly well today. TC&W can and does haul dimensional loads over these segments. BNSF has no jurisdiction from approximately 100’ south of their Wayzata spur. If anything, the proposed re-reroute design (the one rejected by TC&W but being used in the DEIS) would restrict movement of dimensional loads due to the tighter curves. What is the basis for this comment in the DEIS?

CHAPTER 3

Page 3-20: It says that the six studies concluded that the best option for freight rail operations was to relocate the TC&W freight rail operations to the MN&S line. None of the studies considered that the proposed design would create safety risks, noise, and vibration and impose increased operating costs on TC&W and its customers.

Page 3-34: In describing the freight rail relocation, it is unclear what land is affected. In order to reduce the curvature of the connecting tracks (north and south), the diameter of the curves will need to be increased.

Page 3-60: In the first paragraph it states that adding TC&W traffic to the MN&S would add only a small increase in freight rail traffic. Who is defining “small” and what is the definition?

Page 3-60: The fourth paragraph refers to a new bridge structure being constructed. What are the assumptions about who will own and maintain the bridge?

Page 3-61: The second paragraph states “...has the potential for adverse community impacts because of the conflicts that could result from having an excess of activity confined to an area not originally intended for such an intense level of transportation.” Originally this area was the operational hub of the Minneapolis & St. Louis Railway, including locomotive servicing shops and a rail sorting yard. It is incorrect to claim that the area wasn’t originally intended for an intense level of railroad use.

Page 3-69: In the table showing property acquisitions, what footprint is assumed for freight rail relocation? If it is the Kimley-Horn design, then this table substantially understates the amount of land needed for an acceptable freight rail relocation design.

Page 3-70: In describing property acquisitions, the DEIS refers to the *MN&S Freight Rail Report*, Appendix H. TC&W had not seen this report prior to the release of the DEIS. On page 19 of the *MN&S Freight Rail Report* it states, “The design of the direct northerly connection from the CP Bass Lake Spur to the CP MN&S Spur was developed to minimize right of way impacts in this area, and hence provide optimal developable land.” This contradicts the fact that a larger land footprint will be needed to achieve grades and curvature comparable to the existing Kenilworth freight rail route which meets safety and recognized railroad engineering standards. This error results in misleading comparisons shown in the DEIS for property acquisition.

Page 3-96: It states that construction footprints for the Freight Rail Relocation segment have not been developed. This contradicts the land acquisition assumptions earlier in this chapter. In its September 2, 2011, letter, the FTA required the Met Council to do three things: (1) determine the design requirements for adequate safety features for street-grade crossings; (2) include the cost and scope of freight line relocation in the SLRT project and budget; and (3) “analyze the reconfiguration of the Canadian Pacific Railroad’s freight tracks where they will be elevated over the Southwest LRT line and include the analysis in the Southwest LRT project’s EIS and cost and scope. The planned flyover, as currently designed by MC, shows sharp curvature, steep grades, and insufficient clearances.”

The Met Council did not perform any of the three actions mandated by the FTA. The Met Council did not prepare a re-reroute design that eliminates the sharp curvature, steep grades, and insufficient clearances of the present design. There is no additional analysis or design to foster pedestrian and vehicle safety at crossings. The DEIS does not contain any detailed analysis of the cost of the re-route, or of construction of the “quiet zones” it says it will build.

The EIS does not state any details of the cost of the re-route or explain who calculated it or show it was considered in any way. At p. 8-1, the DEIS says the cost estimates for the several alternatives were developed based upon the advanced conceptual engineering plans of Appendix F. Those plans, however, are simply drawings and do not contain any cost estimates. The DEIS says the plans were “described in Technical Memorandum No. 7A dated September 29, 2009 which may be viewed at southwesttransitway.org.” However, the web site does not display or contain a link to such a memorandum. The DEIS says unit costs for freight rail were obtained from the MN&S Freight Rail Study by Kimley-Horn, but that study did not involve any consideration of the co-location alternative.

The DEIS incorporates the same deficient design as the Environmental Assessment Worksheet (EAW) of May 2011, which was shown to TC&W and deemed by TC&W to be unacceptable in 2010. In the absence of an adequate design, the DEIS studies a re-route design that will never be built.

Page 3-107: The visual impacts apply to a connection that is not acceptable for freight rail location and therefore cannot be built.

Page 3-124: It asserts that the new track and retaining walls will be the property of the railroad. Has any railroad indicated it would accept ownership of the retaining walls?

Page 3-127: The footnote to the table refers to “Source: HDR, February 2010.” Where is that source?

Page 3-129: The second paragraph asserts that the use of flashers and bells are examples of railways’ risk mitigation. Railroads do not control the use of flashers and bells. Typically it is the public entity whose streets intersect railroad tracks that typically requests flashers and bells to protect the public.

Page 3-130: It refers to page 85 of the *MN&S Freight Rail Study*, which is included in Appendix H of the DEIS. On page 85 in the third paragraph under “Derailments,” it says, “The required train control signalization measures to be designed and constructed would also improve the safety of train operations in this area. Train crew members operating such trains are all trained on how to operate trains safely on grades, curves and structures.” This assumes that the design and engineering of the grades, curves and structures would “meet very stringent railway engineering requirements.” Since the proposed design does not meet these requirements, as already noted by the FTA and detailed in the engineering review in Appendix A, the safety of train operations in the area will not be improved, but would be compromised.

Page 3-132: It describes CP and BNSF as owners and operators of the tracks in the area. Nowhere does it describe TC&W’s operations or concerns, despite the fact TC&W is the primary freight operator in the Kenilworth and Bass Lake Spur segments.

Page 3-132: As mentioned, the last paragraph on page 85 of the *MN&S Freight Rail Study* claims that the curvature of the bridge structures and grade on the bridge structures would be engineered and constructed “to meet stringent railway engineering requirements to ensure safe operation.” The design represented in this DEIS does not meet those requirements and is therefore unacceptable. An adequate design will require more land area.

Pages 3-135, 136: It mentions Quiet Zone upgrades. Given the proximity to schools adjacent to the MN&S, and the tendency of children to use portable headphones while

walking or biking, the proposed Quiet Zones may well increase risk to school children rather than mitigate it.

CHAPTER 4

Page 4-30: It refers to the *MN&S Freight Rail Study*. On pages 20-21 of that study, it says that the Golden Auto National Lead site has been delisted as a National Priority Site because contaminants have been contained beneath an asphalt cap. However, the site is still monitored and subject to some restrictions. There is no conclusive evidence that a rail structure could be constructed on the Golden Auto site without altering the asphalt cap and disturbing the contaminants there, nor is there any discussion of the potential costs associated with this element of the project.

Page 4-42: It states that construction limits have been reviewed and refined through the project development process to minimize impacts on wetlands, but it does not describe the particular wetland areas to be affected, what the likely impacts are, how the impacts have been minimized, or the design on which the assumed construction limits are based.

CHAPTER 5

Page 5-3: In the table it is shown that ROW expenditures for the LRT 3A-1 are greater than for LRT 3A. It also references the source as “HDR Engineering” for the figures used in the table. What assumptions have been made for the footprint of the freight rail relocation? The necessary revision of the design to address problematic grade and curve issues will require a larger footprint than the currently proposed design. This table substantially underestimates ROW costs for freight rail relocation.

Page 5-4: In the first full paragraph, the same question is raised. What assumptions have been made regarding the land footprint needed for an acceptable freight rail relocation?

Page 5-15: In the table shown, there is no mention of the impacts of the freight rail relocation project, but mention is made of freight rail in the co-location option. This appears to be an apples to oranges comparison.

Page 5-16: In the table shown, under LRT 3A-1, the statement is made that CP would need to amend their trackage rights under the co-location alternative. What is the basis for this statement? TC&W can identify no logical reason why CP would need to amend their trackage rights agreement under the co-location alternative.

CHAPTER 6

Pages 6-38 & 39: In the discussion about vehicle queuing, the report offers no opinion as to the likelihood of trains passing by schools during arrival or dismissal times. TC&W's current daily operations have an eastbound train proceeding through the area during arrival time. TC&W's time of operation is largely dictated by the actions and cooperation of the BNSF and CP railroads, since it is on their tracks that TC&W has trackage rights beyond the Cedar Lake Junction to get to St. Paul. This increases the likelihood of blocking the school crossings at arrival time in the morning.

Page 6-48: As discussed previously, TC&W questions whether installing Quiet Zones improves or hurts pedestrian safety in the vicinity of the tracks.

Page 6-50: A subsequent update to TC&W traffic should be noted. Two unit grain train facilities became operational on TC&W in November 2012. This is estimated to add an additional 70+ loaded and 70+ empty trains per year in addition to the trains shown in section 6.3.1.2.

Page 6-56L: It states that some form of STB oversight will be necessary with respect to freight rail operations. What it fails to mention is that TC&W holds permanent trackage rights over the Kenilworth Corridor and that only TC&W can petition the STB to abandon its trackage rights over that corridor. TC&W will not do so unless the freight re-route design results in a freight rail operation that is safe and does not cost more than it does to use the existing Kenilworth Corridor. These costs include operating and maintenance costs. STB oversight is to protect the freight rail shippers along the TC&W freight rail corridor in south central Minnesota and eastern South Dakota from freight rate increases due to increased freight rail operating costs and to protect those shippers' investments in their businesses and facilities.

Pages 6-56 & 57: As discussed in earlier parts of this response, both the proposed southern connection from the Bass Lake Spur to the MN&S and the proposed northern connection from the MN&S to the BNSF are unacceptable to TC&W, and clearly impose significantly greater uphill grades and sharper curves than the existing Kenilworth route. The notion that TC&W would gain an alternate route by way of CP's Humboldt Yard ignores the fact that this would add significant distance and greater freight track congestion than the current route and delay movement of railcars through the Twin Cities.

Page 6-57: The Freight Rail Relocation calls for using BNSF 25' standards from center of track to LRT track, and from center of track to ROW line. Whose decision was it that a BNSF standard must be used, and what is the rationale for that decision? The DEIS also references the AREMA 25' clearance from bridge piers without a crash barrier. What is the standard with a crash barrier and would that be more economical?

Page 6-59: In the segments describing the various trail crossings under the various scenarios, a map would be helpful.

Page 6-60: It mentions that TC&W freight rail service may be obligated to use temporary trackage during LRT construction, but it doesn't describe where, why, for what period of time, and at what cost.

Page 6-61: The description of construction activities implies that the design in this DEIS is acceptable to TC&W. It is not. The footprint needed for an acceptable design would necessitate a rewrite of this segment.

Page 6-61: A 1-week to 4-week track outage is unacceptable to TC&W. TC&W's customers depend on TC&W to provide timely delivery of their products to St. Paul, and timely transportation of their products from St. Paul to their locations in south central Minnesota.

Page 6-62: A map showing what is described in 6.3.3.3 would be helpful.

CHAPTER 7

Page 7-2: It describes the conditions under which an alternative may be rejected as not feasible and prudent, or as one that “has additional cost of extraordinary magnitude.” Who determines what “extraordinary magnitude” is? Since the design in this DEIS does not meet recognized railroad engineering standards, what is the true cost of a southern and northern connection which would meet those standards? Would that cost be of “extraordinary magnitude”?

Page 7-2: It describes “de minimus” [*sic*] impacts to park properties. Does the acreage needed for LRT 3A-1 (an additional 0.89 acres over LRT 3A) qualify as *de minimis* impact? Is it possible to design the LRT 3A-1 route so as not to take any (or less) park land? Who has attempted to create such a design and how successful were they?

Page 7-9: The table for LRT 3A-1 does not identify a map or otherwise explain exactly where the 0.81 acre area is located in Cedar Lake Park. If the use of such an area is of significance in choosing routes, it should be clearly identified.

Page 7-20: It describes the channel between Brownie and Cedar Lakes as a potential Section 4(f) use. Without knowing what an acceptable design for the northerly connection would look like, but assuming the grading would have to be much more gradual to function for freight rail, it is reasonable to assume there will be Section 4(f) impacts.

CHAPTER 8

In this chapter the costs are shown in the aggregate. It is impossible to determine what specific assumptions and calculations are behind the estimated costs of building the proposed southern connection from the Bass Lake Spur to the MN&S and the proposed northern connection from the MN&S to the BNSF.

Without having those costs clearly detailed, it is not possible to make an accurate comparison to what an acceptable freight re-reroute might cost. This is especially so since no acceptable re-route design has been created and the costs of building an acceptable re-route design have not been estimated. The table shows the cost of relocating the freight as being \$123 million more versus co-location (note: this \$123 million amount was subsequently revised to \$23 million). Does this meet the “extraordinary magnitude” described in the previous chapter? Who determines this?

CHAPTER 9

In the table spanning pages 9-14 through 9-17, there is no mention of freight rail, giving the reader the impression that freight rail impacts have not been considered.

Page 9-25: There is no discussion of the safety impact of freight rail adjacent to the schools along the MN&S, nor is mitigation discussed.

Pages 9-30-32: In these pages there is no discussion of the noise and vibrations of accelerating freight locomotives pulling tonnage up the steep grade until the midpoint of the freight train meets the top of the grade on the MN&S at Minnetonka Boulevard. This noise and vibration will be significant. There also is no discussion of the squealing of steel freight car wheels against the curved steel rails on the proposed southern and northern connections. Mitigation would involve a design that makes the grades substantially less severe and elongates the curves to reduce rail wheel squeal.

Page 9-45: In the table under safety and security, no mention is made of the safety issues created by rerouting the freight rail.

Page 9-52: In the table under Freight Rail Relocation, it describes the cumulative impacts as “more noise events.” This is not discussed in the narrative portion of this chapter.

Page 9-53: In the table under Freight Rail Relocation it says “An increased number of ground-borne vibration events may occur because of the increased number of freight rail trips.” This is not discussed in the narrative of this chapter. Vibration will certainly increase because of the increased number of freight rail trains.

CHAPTER 10

TC&W has no comments on Chapter 10.

CHAPTER 11

Page 11-3: In the table describing the parklands, .227 acres is described as “de minimus,” [sic] but 1.12 acres does not have the “de minimus”[sic] notation, implying that the author knows what the standard for *de minimis* is. What is the standard for *de minimis*, and by whom was that standard set?

Page 11-4: In the table describing the noise, it shows 267 properties affected by co-location and 201 properties by freight rail relocation, with the parenthetical note (“with use of quiet zones for FRR segment”). The assumptions behind this table need to be explained, because as mentioned earlier in this response, the noise of accelerating locomotives and squealing of steel rail wheels on steel rails may rise to the level of “severe residential impacts.”

Page 11-5: In the table showing property acquisitions, the assumptions behind the numbers should be explained. As noted earlier in this document, the land footprint needed to make the freight rail relocation meet recognized railroad engineering standards will be greater than described in this DEIS, making this table misleading.

Page 11-7: The table describes LRT 3A as meeting the goal of “safe, efficient, and effective movement of freight throughout the region, state and nation.” The design used for this DEIS does not meet that goal. Further design work in collaboration with TC&W, the primary user of the freight rail route, will be needed in order to achieve this goal.

Page 11-7: In the table showing the goal of “Continuous flow of freight rail throughout the study area.” it shows “yes” under LRT 3A and “no” under LRT 3A-1. There is no explanation for this difference and it is erroneous. Since 1998, TC&W freight traffic has moved through the Kenilworth Corridor onto the BNSF Wayzata Sub.

Page 11-10: In the language describing freight rail traffic on the MN&S, it uses the language “slight increase” in several areas. This language is not objective; how is “slight increase” defined and by whom?

Page 11-12: In describing the potential adverse impacts of LRT 3A-1 compared to LRT 3A, the first bullet point states that acquiring the Cedar Lake Park property (identified earlier in the DEIS as .81 acres) causes a Section 4(f) impact. Earlier in the DEIS it shows .227 acres as “de minimus.”[sic] (Page 11-3) Again, what is the standard for *de minimis*?

The DEIS does not identify a map or otherwise explain exactly where the 0.81 acre area is located in Cedar Lake Park. If such an area is of significance in choosing routes, it should be clearly identified. The map contained at page 7-16 has “0.81 acre” inside a box and an arrow pointing to the triangle where the BNSF Wayzata sub meets the Kenilworth Corridor track. If that is the area causing a Section 4(f) impact, that land is already adjacent to both freight rail lines and there is no explanation as to how the co-location alternative would affect that land.

The second bullet point implies that having the direct northbound connection from the Bass Lake Spur would eliminate the need for the Skunk Hollow switching wye. TC&W has stated on numerous occasions that a direct northbound connection would NOT eliminate the need for the Skunk Hollow switching wye. This bullet point is false.

The third bullet point makes an assertion without stating the assumptions.

Page 11-12: The last paragraph implies that 0.81 acres is not “de minimus”[*sic*]. Again, what is the standard? It also states that the alternatives (apparently freight rail re-routing onto the MN&S) are “feasible and prudent alternatives.” Without knowing what land footprint will be needed for a design that meets recognized railroad engineering requirements, and without knowing what will be the costs of building an acceptable route, this statement is unsupported. “Feasible and prudent” both require definition.

Page 11-15: In describing the process leading to the selection of LRT 3A as the preferred alternative, it does not mention that the freight rail relocation design and costs were **excluded** as a consideration for arriving at that preference. If consideration had been given to proper design and the true cost of freight rail relocation during the decision making process, would LRT 3A still have been chosen?

Page 11-15: In the second paragraph, the assertion is made that LRT 3A improves the regional freight rail network. The design described in this DEIS does not improve the regional freight rail network due to unacceptably steep grades and sharp curves which do not meet recognized railroad engineering standards. TC&W believes a design can be created that does meet those standards. However, in light of the persistent failure of the Hennepin County and Met Council staffs to listen to TC&W, CP, MnDOT, and the FTA and to collaborate on an acceptable design that does not impose higher operating and

maintenance costs upon the railroads, it is doubtful that the “preferred alternative” route will ever be built.

CHAPTER 12

Page 12-4: it states that the selection of LRT 3A as the recommended Locally Preferred Alternative (LPA) was made in Fall 2009. It does not state that Hennepin County excluded freight rail relocation as a consideration when determining the Local Preferred Alternative (LPA).

Page 12-14: Table 12.2 of the DEIS lists a number of government permits that the SLRT project will require. The list does not include the United States Surface Transportation Board (STB). The STB is the successor to the Interstate Commerce Commission (ICC), and has exclusive and plenary jurisdiction over trackage rights. The Interstate Commerce Commission Termination Act of 1990 (ICCTA) eliminated state and local authority over railroads and granted sole regulatory power to the STB. It has exclusive jurisdiction over railroads and their property. 49 U.S.C. §§ 10501(b), 10102(9)(A). Remedies under ICCTA are exclusive and expressly preempt other Federal and state regulation. This jurisdiction protects the public. Accordingly, trackage rights cannot be withdrawn, terminated or limited once they are granted, without the authority of the STB, **even if the governing trackage rights agreement is expired or terminated**. To obtain the appropriate STB discontinuance authority, the party desiring to terminate the trackage rights must initiate a discontinuance proceeding before the STB. In such a proceeding, that party would bear the burden of proving that the present or future public convenience and necessity permit such discontinuance, and the STB would consider, among other factors, the impact of such discontinuance on the trackage rights operator and the shippers. In this respect, a rail carrier providing common carrier operations via trackage rights has the same rights and obligations to continue to provide such rail operations as it would have if the carrier owned or leased the rail line. The trackage rights over the Kenilworth Corridor and the Bass Lake Spur used by TC&W were approved by the STB. The STB would have to approve any discontinuance of those rights and also have to approve any re-route. In making such determinations, the STB considers many factors, including the effects upon railroad shippers.

A key element of TC&W's formation, which allows its shippers to grow, prosper and invest, is that TC&W's freight rail route to St. Paul will not be impeded with additional costs. In protecting the permanence of a freight railroad's trackage rights, ICCTA created the proper incentives for TC&W and the shippers it serves to grow, prosper and invest, resulting in efficient, economical and sustainable rail operations.

CONCLUSION

TC&W has grave concerns about a number of issues that will negatively impact our operations and shippers in south central Minnesota and eastern South Dakota. TC&W has raised these issues before but has been ignored.

As presently designed, the SLRT would negatively affect the people and businesses in the rural areas of central Minnesota and eastern South Dakota served by TC&W. It would also negatively impact many residents of St. Louis Park. The negative effects include:

- Failure to consider safety risks to pedestrians, vehicles, and residents
- Environmental
 - Additional greenhouse gas emissions
 - Increased locomotive and train wheel noise
- Increased operating and maintenance costs
 - Costs being passed onto our customers
 - Stifled job and economic growth
 - Defective freight rail design
 - A. Tighter curves and greater grades in excess of recognized railroad engineering standards
 - B. Greater risks of derailments
 - C. Operating inefficiencies
 - D. Unusually large track maintenance expenses
 - E. Loss of track capacity on the Bass Lake Spur necessary for staging, switching, sorting, and storing freight railcars
 - F. No alternative to continued use of the Skunk Hollow Wye
 - G. Threats of track “outages” during SLRT construction
- Inadequate consideration of the co-location alternative
- Failure to comply with FRA and MnDOT Directives

The DEIS does not satisfy the requirements of Minnesota Statutes Section 116D nor the requirements of the FTA as set forth in its September 2011 letter to the Met Council.

The FTA required the Met Council to “determine the design requirements for adequate safety features for street-grade crossings between the SLRT line and existing freight rail tracks.” Despite the passage of sixteen months, that has not been done.

The FTA also directed the Met Council to develop with a freight rail design without “sharp curvature, steep grades, and insufficient clearances.” Again, despite the passage of sixteen months, that has not been done.

The FTA further directed the Met Council to evaluate the co-location alternative. The analysis of co-location in the DEIS is perfunctory and the result appears predetermined. The reasons advanced for rejecting co-location – the “need” to use 0.81 acres of park land and the “need” for the re-route to give TC&W a route to get to the BNSF Wayzata Sub and to St. Paul – are insubstantial as to the first and inaccurate as to the second. The cost analysis fails to show any detail to allow an honest evaluation of the costs of co-location, especially since a safe and adequate re-route design has not been developed.

A safe, effective, and operational re-route design will need more land area and cost more than the present design. If one is ever completed, a revised analysis of environmental impacts and costs will be needed.

In the absence of a safe and properly engineered re-route, TC&W will oppose any discontinuance proceedings before the STB which would be required by federal law to terminate TC&W’s trackage rights to continue to use the Kenilworth Corridor.

APPENDICES TO TC&W'S RESPONSE TO THE DEIS

- A. Engineering Report**
- B. Track Capacity Constraints**
- C. TC&W June 2011 Response to the EAW**
- D. CP June 2011 Response to the EAW**
- E. History of Railroads and the TC&W**
- F. Letters of Support from Customers**
- G. Letters of Support from Cities**
- H. Letters of Support from Counties**

December 11, 2012

ENGINEERING REVIEW OF FREIGHT REROUTE WITHIN

DRAFT ENVIRONMENTAL IMPACT STATEMENT

Review of the proposed plan to reroute the daily freight rail traffic of the TC&W Railroad would be described as detrimental at best to freight operations. The new ruling grade for all freight would dramatically affect the operations, maintenance and capital plans for this railroad. Comments related to these three items are detailed below:

Background:

In a perfect world, all railway alignments would be tangent (straight) and flat. This would provide for the most economical operations and the least amount of maintenance. A freight train is most commonly comprised of power and cars. The power may be one or more locomotives located generally at the front of the train. The cars are then located in a line behind the power. As a train moves up and down a hill, it could be visualized as pulling on a chain. As the chain is pulled up a hill everything follows very nicely in a straight line. If the chain gets pulled over a hill, the downhill portion of the chain tries to bunch up behind the leading link and doesn't want to stay in a straight line (buff – downhill forces; draft – uphill forces). As the chain is pulled around in a curve, the trailing links in the chain try to form a straight line. The chain analogy creates a good visualization for the forces acting on a train.

The proposed connecting route for the TC&W Railroad would require both loaded and empty trains to negotiate a series of steep grades and sharp reversing curves. The current proposed design for a connecting route from the Bass Lake Spur to the MNS Spur includes grades of 0.86% and 1.5% grades leading up to and through an 8 degree curve. The high point of the grade is well into the curve. Thus west bound traffic would have to pull up a grade of 1.5% while turning through an 8 degree curve while the trailing cars would be negotiating a reversing set of curves behind.

In the BNSF Design Guidelines, Revision May 2011, under the heading of Vertical Curves states "For secondary main tracks (speed < 50 MPH), the rate of change should not be more than 0.10 feet per station in sags, and not more than 0.20 feet per station on summits." Considering the curve proposed between the Bass Lake Spur and the MNS Spur, there is a 0.86% east bound grade and a 1.5% west bound grade with the summit being at about Station 141+82. The length of the vertical curve is 400 feet or 4 stations. Thus the rate of change per station can be calculated as $(0.86 + 1.50) / 4 = 0.59$ feet per station. This is greater than 0.20 feet per station by almost 3 times.

AREMA (American Railway Engineering and Maintenance-of-Way Association) provides an equivalent grade by adding 0.04% of grade for every degree of curve. Therefore the compensated grade for the proposed route is $1.5\% + 0.04\% \times 8 = 1.82\%$. Now the 8 degree curve is reduced to an equivalent grade of 1.82% on tangent (straight) track. This creates a new "Ruling Grade" for any freight operation. A ruling grade is the maximum grade for which the railroad must allocate power (locomotives) to pull a load.

AREMA also specifies that the tractive effort (the force required by the locomotive) increases by 20 pounds/ton per percent of grade. Since the maximum existing grade is 0.45% the increase in grade becomes $1.82\% - 0.45\% = 1.37\%$ and increases the tractive effort required by 137 tons on a full (10,000 ton) train, requiring at least one additional locomotive and the likelihood of distributed power. Distributed power is the ability of placing locomotives at both the front and the rear of the train. Distributed power requires a mechanism that will balance the force between the front and rear locomotives such that they will work together to move the loads.

The 2003 AREMA "Practical Guide to Railway Engineering" points out many hazards associated with extreme curvature, reverse curvature and undulating grade. This publication summarizes as follows:

".... reversing curves should be avoided at all costs. With reverse curves, there are two dynamic components acting on a single car or rail vehicle causing a yawing effect, which is of concern. . . . The net effect is a couple about the center of the car. This compares to a car on a single curve where the forces at either end of the car are acting in the same direction and thus counter-acting one another. This couple effect greatly increases the likelihood of the train buckling and thus a derailment."

Once onto the MNS Spur, there are two reversing curves with grades as high as 1.5% and compensated grades as high as 1.72%. For an east bound loaded grain train of 110 cars, the train would be 7045 feet with three locomotives; the train would extend through the first three curves from the Bass Lake Spur to the MNS. When the curve radius and grade is severe, the potential for accidents is increased. This is not desirable in an urban area and certainly less than desirable from a railroad's standpoint.

It is difficult for many people to visualize how long a train can be. If a 7000 foot loaded grain train were east bound and the back of the train was positioned at the beginning of the curve where the Bass Lake Spur turns north to the MNS Spur, the front of the train would be positioned just north of the 29th Street crossing. Within this length, the train would be trailing through three horizontal reverse curves and six vertical curves. The dynamics of the train will be very difficult for the crew to control and the potential for derailment is very high.

Maintenance:

Curves, especially sharp curves, are a maintenance problem for all railroads. Rail life is severely impacted on any curve over two degrees and the useful life is shortened based on tonnage and speed. Excessive effective grade (over 1% compensated) will cause an increase of wheel burns to the rail, which will lead to an increase in web/head fracture or broken rail. The low rail is flattened particularly when the rail is traversed at slow speeds and underbalance imposes more car weight over the low rail. The high rail is abraded as the truck attacks the high rail as it is steered around the curve. AREMA indicates that wheel tread will general guide the rail vehicle on curves up to three degrees before flange/rail contact begins to regularly occur (thus significant curve wear of rail head begins).

The proposed connecting route from the BNSF Wayzata Subdivision over the MNS Spur to the Bass Lake Spur will contain four horizontal curves that exceed 1% compensated grades. Within this route, there are 5,102 feet of curves that exceed 1% compensated grades. Depending on the tonnage, replacement of the rails and ties due to the curve will need to be frequent. Replacement of the rail for these curves would cost between \$150,000 and \$200,000 in today's dollars. Also, there are two switches in this proposed mainline at grades of 1.5% and very near the point of horizontal curve. These switch positions are certainly not desirable as they create likely points for derailment given their relative position in the horizontal and vertical alignments.

Super-elevation (inside rail is lower than the outside rail) is required to keep cars balanced and the speed of the train will create a centrifugal force that will try to keep the cars on a straight line. By introducing super-elevation, the force on the track is more balanced between the rails. However in sharp curves, the amount of super-elevation required to counteract the centrifugal force becomes more substantial. Without any super-elevation, the speed on the curve would be limited to 23 MPH.

To maintain this super-elevation is very costly. Failure to do so creates a hazardous condition where cars could overturn on the outside of the curve. Additionally, having a sharp curve on a bridge introduces safety issues related to public and railroad safety. Because of the safety concern, the FRA (Federal Railroad Administration) requirements for surface and alignment in a curve are much more stringent. For reference see FRA 213.55 and FRA 213.63. It is likely that the track within the curves would require surfacing at least 3 to 4 times per year at a current cost of around \$10,400 per time.

Operations:

Train Speed will be impacted primarily by the 8 degree horizontal curve although all of the curves in this proposed alignment will affect train speed. Without super-elevation in the curves, the train speed is limited to 23 MPH. Uphill trains will operate slower. If higher downhill speed is desired, super-elevation must be added to be compliant with FRA 213.57 which will result in rail flattening as referenced above.

Additional running time will be required for each train as they travel up the hills and around the horizontal curves. The result of the MNS Spur connection may be that heavier trains will need to double the entire MNS Spur (only half of the train will be hauled up the hill at a time), resulting in the need for a long siding at each side of the MNS Spur to accommodate the doubling movement. With increased power required for each train, there would likely be a need to purchase additional locomotives to run with each train. It is also very likely that distributed power would be required on each loaded train to avoid excessive force on drawbars. By our calculations, pulling a full train (10,000 tons) on the proposed alignment and grade, without distributed power would be possible with five locomotives but the coupler capacity would be exceeded by about 33% thus causing damage to cars.

A typical freight operation would organize cars in the train for efficient operation at the stations. For example, Station A might get 5 loaded fertilizer cars and 5 empty grain cars, Station B might get 3 loaded box cars and 4 loaded gondolas. The railroad would line these cars up in the train so that cars for Station A are at the rear of the train, next would be cars for Station B and so on. If empty cars are

interspersed with the loaded cars (ie: empty grain cars returning with loaded fertilizer cars) as is typically the case with freight movements, there is a concern that the loaded cars would pull the empty cars off the track on the inside of the curve. This is called a "straight lining the curve" derailment. To avoid this condition, the railroad would need to change their operations to group all the loads together behind the locomotive and all the empties following. Rearranging the cars in this fashion would require additional time, labor and fuel at every station to set out loads and empties. Additionally, it is possible that additional yard track would be required at the stations to maneuver the cars.

Capital Plans:

The additional locomotive power and the ability to distribute power would require a capital investment on the part of the Railroads. The proposed plan will require the Railroad to invest in new locomotives and maintenance equipment for surfacing the curves along with the additional cost of fuel. These costs will be incurred in perpetuity causing an increase in operating costs and a decrease in profitability. In addition, if the track changes the operations of the Railroad, additional siding tracks may be required to allow the railroad to manipulate the cars at each Station. The cost of track for freight is currently about \$165 per track foot plus the cost of switches. Thus if a station needed to have an additional 20 cars of track to set off cars at the station, the cost could be over \$300,000 per station.

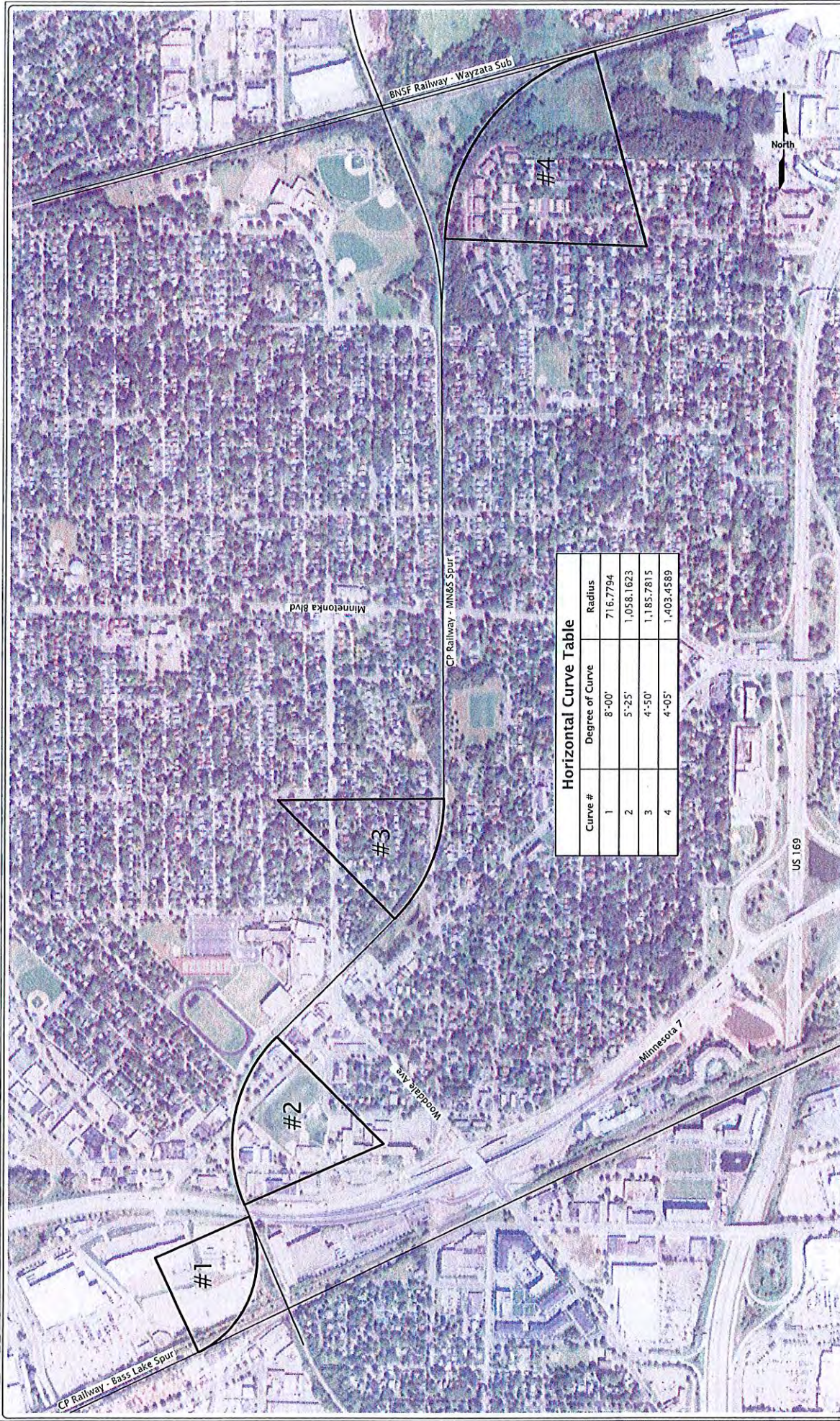
Conclusion:

The proposed plan for the Bass Lake/MNS Spurs places sharp curves, reversing curves and steep grades in a mainline freight railroad. All guiding specifications and design guidelines have been violated by this proposed plan. Placing an 8 degree curve on a bridge with a steep grade on either side, introduces enough of a safety concern in itself to dismiss the current proposed plan.

This plan would draw criticism from any railroad wherever it is presented and should not be considered. With the information above, even if cost were not an issue, the safety concerns would certainly be enough to bring the designers back to the drawing board. Having an elevated grade in a curve has safety implications for the railroad workers, and the general public. Finding a solution that will satisfy these conditions should be a priority before anything else. Addressing the original set of criteria would require that no additional restrictions be imposed on the freight railroad. This plan imposes restrictions that are unreasonable for the operating railroad.

Respectfully,

Carey Bretsch, PE
Principal



Horizontal Curve Table		
Curve #	Degree of Curve	Radius
1	8'-00"	716.7794
2	5'-25"	1,058.1623
3	4'-50"	1,185.7815
4	4'-05"	1,403.4589

Hennepin County - Rail Study

CAD Filename:
Hennepin Co. Prelim

CDI Project No.
2011-131

Drawn By:
JDS

Checked By:
CLB

Scale:
1" = 600'

Date:
12/20/2012

CIVIL
DESIGN INC

609 Main Ave S
Brookings, SD
605-696-3200

Sheet No:

of No:

TRACK CAPACITY CONSTRAINTS

Currently the Twin Cities & Western Railroad operates on the Canadian Pacific Bass Lake Spur. Along the Bass Lake Spur are multiple locations called sidings. Sidings are locations connected to the main track by switches. A switch is a mechanism that allows a train to leave one track to traverse onto another track.

For the purposes of clarity, each siding location on the Bass Lake Spur is named. Along with the name for each siding, the number of cars that can fit in each is shown below.

This is the breakout of the sidings on the Bass Lake Spur east to west:

1. Bass Lake Yard: Two tracks with each one able to hold 20 cars
2. Hwy 100: 32 cars
3. Creek: 105 cars
4. Salt Track: 15 cars
5. Dominick East: 62 cars
6. Dominick West: 86 cars

In total, the TC&W has storage for 340 cars along the Bass Lake Spur. We utilize these tracks for long term storage, staging of unit trains, and staging of traffic to go west on TC&W. The majority of the time, these tracks are full and in use.

When the TC&W receives cars from the Canadian Pacific (CP), Burlington Northern Santa Fe (BNSF), Union Pacific (UP), or Minnesota Commercial (MNNR) we bring those cars onto the Bass Lake Spur where we use these tracks to sort our cars. TC&W switches out these cars by repeatedly decoupling, moving and recoupling for final train assembly, into the appropriate order based on their final destinations, to allow for fluid and timely operations.

Under the proposed re-route option presented in the DEIS, TC&W will lose storage and sorting space along the Bass Lake Spur. Based on the table above, TC&W would lose the Bass Lake Yard, Hwy 100, Creek, and Salt Track sidings. This means a loss of storage space for 192 cars, or approximately 12,480 feet of current track capacity. This capacity is essential for daily operations on the TC&W. Any lost track capacity must be replaced at an agreed upon location.

If additional track is needed west of Hwy 169 overpass, then the balance of the storage would be compromised (Dominic east and west) and we would lose 9,620 feet of storage, bringing the total lost track capacity to more than 22,000 feet.



TWIN CITIES & WESTERN RAILROAD COMPANY

June 15, 2011

2925 - 12th Street East
 Glencoe, MN 55336
 (320) 864-7200
 FAX (320) 864-7220

Frank Pafko
 Director, Office of Environmental Stewardship
 Minnesota Department of Transportation
 395 John Ireland Boulevard, MS 620
 St. Paul, MN 55155-1899

RE: Comments on MN&S Freight Rail Study Environmental Assessment Worksheet

Thank you for the opportunity to review and submit comments relating to the environmental assessment worksheet. As a freight operator over the proposed and current rail, please accept our comments below in response to the MN&S Freight Rail Study - Environmental Assessment Worksheet (EAW) dated 05.12.2011.

Licensing and STB Approval

The common carrier operations of Twin Cities & Western Railroad Company ("TCW") are subject to the federal Surface Transportation Board ("STB"), which has "exclusive" jurisdiction over "transportation by rail carriers." 49 U.S.C. § 10501(b). "Transportation" is defined broadly, to include any "property . . . of any kind related to the movement of passengers or property, or both, by rail, regardless of ownership or an agreement concerning use." 49 U.S.C. § 10102 (9) (A). Under the ICC Termination Act of 1995, a common carrier must obtain regulatory authority to conduct operations on the rail lines of a third party. Accordingly, TCW obtained such authority from the STB in 1998 in connection with relocating its rail operations from the Merriam Park Line (also known as the 29th Street Corridor, now the Midtown Greenway), also owned by Hennepin County Regional Railroad Authority, to the Kenilworth Corridor prior to commencing operations over the Kenilworth Corridor. Moreover, and of particular importance with respect to the project described in the EAW, a common carrier generally must obtain regulatory authority to discontinue operations over the line of a third party or to re-locate operations onto another rail line. The EAW lists several licenses and permits which must be obtained for the project. (EAW, p. 16). The EAW, however, does not mention or discuss the necessity of seeking and obtaining similar regulatory authority from the STB for this relocation project.

TCW has not approved or accepted the proposed reroute design. We have serious misgivings about the design of the proposed connection between the CP Bass Lake Spur and the CP MN&S Spur and the grade on the MN&S. Those concerns focus on the safety, efficiency and costs of TCW's proposed operations over that connection and the adverse effects on shippers. TCW's customers have expressed similar concerns to senior officials of our company. Under these circumstances, attempts to obtain regulatory authority for this relocation project (including

authority for TCW to discontinue its current rail operations over the Kenilworth Corridor) could raise opposition from various entities, as well as judicial challenges.

The EAW does not discuss either the need to obtain STB regulatory authority as a condition to completing the proposed project or the prospect that such authority may not be forthcoming. These issues should be carefully considered before HCRRA proceeds along the lines described in the EAW.

Failure to identify environmental impacts from increased curvature and gradients

- TCW's existing operations consists of at a maximum ascending eastbound grade of 0.40% and a maximum curve of 3.5 degrees on the Bass Lake Spur, and a maximum eastbound ascending grade of .45% (this is a short segment preceded by a longer segment of descending grade of .65%) and a maximum curvature of 6 degrees on the Kennilworth corridor. The proposed design proposes a maximum ascending eastbound grade of 0.86% (ascent from Bass Lake Spur to the MN&S) and maximum curve of 8 degrees on the new design element. (EAW, p. 8, Proposed Action - Key Design Elements section) On the MN&S, the proposed grade is 1.2%. (EAW, p. 12, Detailed Project Description)
- If the .86% and the 1.2% grades are assumed to be final, the increased noise from accelerating locomotives struggling to make the increased grades will be significant. The EAW fails to discuss or assess the increased noise. (EAW, p. 48 - 55, Noise section)
- The increased curvature creates additional friction, which amplifies the noise emissions including high-frequency squealing and echoing. The EAW again fails to discuss or assess the increase in noise due to greater curvature. This increased noise is not identified or assessed in the EAW. (EAW, p. 48 - 55, Noise Section)
- The greater grades will result in increased diesel emissions due to the need for more horsepower because of the increased grade. (EAW, p. 47, Air Quality Hot Spot Analysis/Mobile Air Source Toxins) The EAW fails to make any assessment of this.
- The EAW does not identify the linear feet associated with increased grades, which has a direct environmental impact on noise, emissions, vibration, etc. (EAW, p. 12, first paragraph)
- The EAW does not identify the grade to traverse from the west-bound BNSF Wayzata Subdivision to the south-bound MN&S. (EAW, p. 8, Proposed Action - Key Design Elements section)
- The EAW does not identify and measure vibration of existing train traffic on the existing TCW route. (EAW, p. 63, Existing conditions)

- The existing connection to BNSF at Cedar Lake Junction is directly to the main line. The proposed project shows the existing BNSF mainline at the Iron Triangle will be converted to a siding track. The emissions, vibration, and nuisance impacts of this siding are not identified. (Track Plan, Sheets 15-22)

Inaccuracies in the EAW, EIS, AUAR or other accompanying documents

- The proposed increased east-bound grade and curvature does not improve TCW's operational efficiency for freight movement through the City of St. Louis Park as stated. (EAW, p. 47, third paragraph) Instead, the increased grade and track curvature lessens our operational efficiency by requiring additional horsepower. The increased curvature would produce increased wear and tear on car and locomotive wheels.
- The EAW assumes the TC&W freight operations which are to be relocated have an average of 50 carloads/train for CP and an average of 20 carloads/train for UP. (EAW, p. 7, Regular Trains) However, TCW's current carload averages are greater; the average train size of our current operation is 68.5 cars/train for CP and 23.5 carloads/train for UP.
- Our existing operations would lead the 8-8:15 a.m. scenario to be more common than "relatively rare". (EAW, p. 41, last paragraph)
- Correction in the sentence, "The times in the table are based on the time when the first car enters the corridor until the time when the first car exits the corridor." (EAW, p. 40, third paragraph) We believe this should read "...when the last car exits the corridor."

Environmental impacts that have not been adequately addressed

- The EAW says TCW trains will be temporarily rerouted during the 1-week to 4-week duration when the MN&S bridge over TH7 and the TH7 South Frontage Rd would be removed and reconstructed but does not discuss what routes would be available or the impacts of such disruption on TCW and its customers. (EAW, p. 14, Disruption of Rail Operations)
- The "Economics" section does not mention, much less resolve, the increased operating costs to TCW from increased grades and curvatures. (EAW, p. 88, Economics)

Possible mitigation measures that could or should be added to the proposal

Quiet Zone: TCW urges city, county, and state officials to thoroughly and carefully consider the residual safety hazards that are associated with a quiet zone in St. Louis Park versus the associated environmental benefits. We have safety concerns due to a number of factors: 1) increase in train size, speed, and frequency; 2) proximity to schools, business, and residential; 3) an increased number of at grade crossings. While we understand the concern for train whistle and associated noise impacts, we strongly urge consideration of these safety factors when decisions are made. (EAW, p. 44, Mitigation)

Design review

TCW has not approved the proposed design. We have not thoroughly reviewed the proposed design or hired an engineer to review it. Engaging in such a review does not seem appropriate unless the project is going to proceed. Hennepin County has now represented that the cost of the proposed project is \$76.7 million. We are not aware that Hennepin County or any other government entity has such funds available or committed for this project. We also are not aware of any timetable for obtaining such funds. This cost estimate is, moreover, plainly insufficient since it does not include money to ameliorate the increased costs of operations which will be caused by the proposed design. TCW anticipates retaining an expert to review whatever is the proposed design at the time that adequate funding appears on the horizon. We may have further comments based on that review.

Respectfully submitted,

Mark J. Wegner

Mark Wegner
President
Twin Cities & Western Railroad
2925 12th Street East
Glencoe, MN 55336



**CANADIAN
PACIFIC
RAILWAY**

501 Marquette Avenue
Minneapolis, Minnesota 55402

June 14, 2011

Mr. Frank Pafko
Director, Office of Environmental Stewardship
Minnesota Department of Transportation
395 John Ireland Boulevard, MS 620
St. Paul, MN 55155-1899

VIA E-MAIL: frank.pafko@state.mn.us

RE: Comments on MN&S Freight Rail Study Environmental Assessment Worksheet

Dear Mr. Pafko:

Thank you for the opportunity to comment on the environmental assessment of the proposed upgrades to the MN&S rail corridor. As owner and operator of some of the railroad track under study, the Canadian Pacific (CP) will ultimately need to concur in the final design and approve the proposed changes made to our property. These comments are not intended to fulfill that function, nor are they intended to serve as an endorsement or rejection of the proposed project. Rather, by submitting comments, CP would like to ensure that any assumptions about the project are accurate and that the proposal aligns with our expectations about how we manage and operate the MN&S property. In that spirit, we would like to make you aware of the following:

- At this time, CP has not made any commitments to own, operate or maintain the new structures or track proposed in the EAW.
- We have reviewed comments to be submitted by the Twin Cities and Western Railroad (TC&W) and are largely in agreement with their concerns.
- The document fails to recognize impacts to CP of the upgraded infrastructure and increased tonnage. The cost of operating and maintaining the new track, structures, signalization system, and connections from the Bass Lake Spur to the MN&S and from the MN&S to the BNSF will be much more expensive and is expected to exceed any revenue derived from TC&W's use of the track.
- The proposed physical improvements should address the operating needs of the railroads for grade and curvature. Such a significant investment for improvements should result in a design that is not operationally deficient.
- Quiet zones can be an effective tool for improving grade crossing safety while minimizing noise. However, designing and constructing the improvements needed to meet FRA requirements for quiet zones may be difficult – especially considering the site and geometrics in the MN&S corridor.
- CP will experience track outages during construction of the proposed project, particularly during reconstruction of the bridge over Trunk Highway 7. The disruptions will challenge the ability for CP's customers, including Progressive Rail, to receive service

for almost a month. No plan for phasing construction to accommodate disrupted CP traffic is provided. (page 14)

- There are references to a number of permits that may be required for completion of the project. (page 16) Without analyzing the specifics of any of the identified permit requirements, we simply note that state and local permitting requirements may be subject to preemption by the federal laws regulating rail transportation.
- If any attempts are made to reduce the grade of the new connection from .86% for improved railroad operations, Minnehaha Creek could be impacted. Even existing grades at locations on the MN&S of 1.5% and 1.2% present operating difficulties for the proposed longer, heavier trains.
- Due to the possibility of disturbing contaminants at the Golden Auto National Lead Site, it is unlikely that CP would be interested in taking on responsibility for construction or ownership of the new connection between the Bass Lake Spur and the MN&S.
- Some proposed physical improvements, such as the installation of fencing, are not betterments that the CP would ordinarily agree to make and would have to be built and maintained by others.
- CP has not committed to owning the new retaining walls (page 71). The process of designing these walls will require a high level of community engagement. This is not something CP is in a position to undertake, but that a public entity would need to coordinate.

If the proposed project moves forward, CP wants to ensure balance between the interests of the railroads, our customers, and those of the community. Based on the scope of the project and characteristics of some of the improvements, CP may decline to take possession of them, as significant cost and liability are shifted to us. We do not make this point to undercut the potential viability of the project if properly carried out, but to caution that there are still significant decisions to be made that will impact private and public expectations going forward.

Respectfully submitted,



Judy Mitchell
Director Strategic Initiatives
Passenger Rail US
Canadian Pacific Railway

HISTORY:

FREIGHT RAIL IN SAINT LOUIS PARK AND THE KENILWORTH CORRIDOR

In order to understand why freight rail operates in this area as it does, it is helpful to understand the history of the four rail lines or corridors in the area. There are four rail lines:

- 1) The east-west Wayzata Sub of the BNSF, the northern rail line in the study
- 2) The Hennepin County owned bike trail (Cedar Lake trail) and the rail line in the Kenilworth Corridor (freight trains operated by TC&W)
- 3) The CP's Bass Lake Spur (former Milwaukee Road main line) (freight trains operated by TC&W)
- 4) The MN&S north-south rail line from Crystal through Saint Louis Park, continuing to Savage and points south

The east-west Wayzata sub of the BNSF was originally part of the Great Northern Railway (GN), which went to the West Coast. The GN had a large rail yard east of where the current Highway 100 crosses over it in Saint Louis Park, about one mile east of where the MN&S rail line crosses over the BNSF line. GN exchanged rail cars with the MN&S railroad at the GN rail yard. MN&S brought the cars to be exchanged (10 to 20 cars at a time) from its north-south line to the GN's east-west line via a connecting track (now known as the Iron Triangle) that was designed for a small number of rail cars (up to 20 at a time).

When the merger of the GN, Northern Pacific, Chicago, Burlington & Quincy and the Seattle Spokane and Southern occurred in 1969 to create the Burlington Northern Railroad (BN), the BN began to consolidate its rail yards in the Twin Cities, closing some and expanding its Northtown yard in Fridley and northeast Minneapolis. In approximately 1972-3 the BN closed and salvaged the rails in the GN rail yard that existed east of Highway 100 on the Wayzata sub. This led the MN&S to transfer rail traffic from the MN&S to the BN using the Soo Line track in North Minneapolis across the Mississippi River near the Camden area of Minneapolis to get to the BN's yard at Northtown. This led to the abandonment and removal of the rail connection between the MN&S and the BN in Saint Louis Park's Iron Triangle. The land ownership remains with CP (successor of MN&S). The grade and curvature of that track were built to handle up to 20 cars at a time, not today's unit trains which can have up to 123 cars.

The Hennepin County-owned Cedar Lake bike trail and the Kenilworth Corridor were once part of the Minneapolis and Saint Louis Railway (M&STL). Saint Louis Park is named after this rail line. This independent rail line once had a rail yard and locomotive shops in the Kenilworth Corridor (hence the wide right of way ½ mile north of Lake Street). The rail line went along the Hennepin County Cedar lake bike trail into Hopkins, where a junction existed.

The M&STL was purchased by the Chicago Northwestern Railway (C&NW) in 1958 and merged into their system, but freight operations in this area remained unchanged until around 1980. At that time, the C&NW built a rail connection at Norwood (now Norwood Young America) to allow freight trains onto the Milwaukee Road via trackage rights from Norwood to the Kenilworth Corridor. This allowed the C&NW to abandon its track from Norwood to Hopkins. Hennepin County purchased the land from Hopkins to Victoria to create the Lake Minnetonka bike trail.

Around 1990, trackage rights arrangements were made with the Soo Line (successor to the Milwaukee Road) to allow Soo Line to obtain access to Shakopee, Minnesota via the C&NW rail line on the south side of the Minnesota River. This enabled the C&NW to abandon the track west of the Kenilworth corridor to Chaska, which Hennepin County purchased and created the Cedar Lake bike trail and the Minnesota Bluffs bike trail.

Freight rail traffic that originated at cities along the freight rail line from Norwood to Hanley Falls were exchanged with the C&NW at the Kenilworth corridor following the 1990 abandonment west of Kenilworth, using the Bass Lake Spur tracks.

The CP's Bass Lake Spur was once part of the Milwaukee Road's main line to the Pacific Coast. The main line ran from Chicago to Minneapolis, with a spur up to the historic station in downtown Minneapolis (now a hotel and skating rink), and thence through the 29th Street Corridor, past the Kenilworth track, through Hopkins and points west, all the way to Tacoma, Washington. As recently as 1960, passenger trains traversed this route at 80 mph.

As the health of the US freight railroads declined in the 1950's and 1960's with the advent of the interstate highway system and heavy regulation of freight rates by the ICC, the rail and infrastructure condition on the Milwaukee Road's system began to deteriorate. In 1977 the Milwaukee Road declared bankruptcy. The Milwaukee Road then operated under a bankruptcy trustee, abandoning its rail line from Montana to Tacoma,

along with scores of branch rail lines in Minnesota, North and South Dakota, Iowa and Illinois.

In 1985 what remained of the Milwaukee was put up for sale at auction, and there were two bidders, the C&NW Railroad and the Soo Line Railroad. The C&NW had a significantly higher bid, but the bankruptcy judge felt it was in the public's best interest to maintain a competitive freight rail system. To everyone's surprise, he awarded the bid to the Soo Line.

The Soo Line was not prepared for the cash infusion the Milwaukee Road needed. In an effort to raise cash the Soo Line single-tracked much of the remaining double-track Milwaukee rail and sold parts of its own system to raise cash. The Milwaukee Road segment from Minnetonka to Appleton, Minnesota was sold in July 1991 to the founders of TC&W. During negotiations for that sale, Hennepin County expressed its interest in the 29th Street Corridor and part of the consideration was to allow the sale of the 29th Street Corridor as long as a suitable re-route was obtained to allow TC&W to get to Saint Paul.

The Minneapolis Northfield & Southern (MN&S) was a relative late-comer to the Minnesota freight rail network. Most of Minnesota was already served by railroads by 1905, but Colonel Marion Savage had a race horse - Dan Patch - and a dream to get people to come to his race track south of the Minnesota River. In 1908 the Minneapolis, St. Paul, Rochester and Dubuque Electric Traction Company was formed to build a rail line, which was built in the 1908-1910 era, and then extended north following 1918 through Bloomington, Edina and Saint Louis Park. Because of the late construction through an already developed area, the MN&S right of way is narrower than that of most freight rail lines.

The MN&S thrived as a facilitator of rail freight between the larger railroads in the Twin Cities until the deregulation of rail freight rates by the ICC in 1980. The Soo Line purchased the MN&S in 1982.

The CP absorbed the Soo Line into its system in the late 1990's.

FREIGHT RAIL INDUSTRY – TRACKAGE RIGHTS AND SPIN-OFFS

As 1960 approached, freight rail in North America and in Minnesota was in decline. Due to heavy regulation by the ICC, railroads were not able to set freight rates to compete with trucks. With the expanding interstate highway system and the upgrading of state and

county roads, many low density freight rail lines disintegrated until the lack of service led to disuse and eventual abandonment. The freight rail companies at the time focused their efforts on higher density rail lines, but those too couldn't compete with the highways, so main lines eventually were abandoned as well.

After the much publicized failure of the merger of the Pennsylvania Railroad with the New York Central to form Penn Central, the Penn Central bankruptcy and the government bailout forming Conrail, Congress and the President passed the Staggers Act of 1980 which began the de-regulation of the rail industry.

During the 1970s and 1980s, some large railroads abandoned their own main lines connecting large cities after obtaining trackage rights on a competing railroad connecting the same cities. For example, there once were four main freight rail lines connecting Minneapolis-St. Paul to Duluth-Superior. The Soo Line (now CP) was able to abandon its rail line from Minneapolis to Superior after obtaining permanent trackage rights on the BN. The C&NW (now UP) was able to abandon its rail line from St. Paul to Superior after obtaining permanent trackage rights on the BN.

The BN itself was able to abandon its line from St. Paul to Duluth by consolidating rail operations on its Minneapolis to Superior rail line. In order to maintain freight rail competition, federal policy has been to approve permanent trackage rights arrangements over alternate routes prior to the freight railroad abandoning its own route. Part of this approval process is to ensure the alternative route preserves freight rail competition. The existing freight rail operator must request abandonment of a current route in favor of an alternative route that maintains competition.

One of the outcomes of the Staggers Act was to provide an alternative to freight rail line abandonment, because preserving freight rail service to rural areas was sound public policy. The large railroads began to sell or lease lighter density rail lines that they couldn't operate or maintain profitably.

A key part of the large railroads' strategy to take advantage of this new opportunity was to spin off segments of their systems, but create a sale or lease in which the connecting track to their own freight rail system would remain in their hands. This was done via the "trackage rights" system, wherein the connecting track would be made available for use by other carriers to connect to the selling railroad and other railroads.

The STB, successor to the ICC, has exclusive and plenary jurisdiction over trackage rights. The Interstate Commerce Commission Termination Act of 1990 (ICCTA) eliminated state and local authority over railroads and granted sole regulatory power to the STB. It has exclusive jurisdiction over railroads and their property under 49 U.S.C. §§ 10501(b), 10102(9)(A). Remedies under ICCTA are exclusive, and expressly preempt other Federal and State regulations.

This jurisdiction protects the public against disruption in rail operations via trackage rights being unnecessarily discontinued, interrupted or obstructed. Accordingly, trackage rights cannot be withdrawn, terminated or limited once they are granted, without the authority of the STB, *even if the governing trackage rights agreement is expired or terminated*. To obtain the appropriate STB discontinuance authority, the party desiring to terminate the trackage rights must initiate a discontinuance proceeding before the STB.

In such a proceeding, that party would bear the burden of proving that the present or future public convenience and necessity permit such discontinuance, and the STB would consider, among other factors, the impact of such discontinuance on the trackage rights operator and the shippers. In this respect, a rail carrier providing common carrier operations via trackage rights has the same rights and obligations to continue to provide such rail operations as it would have if the carrier owned or leased the rail line.

Trackage rights granted by the STB are generally permanent (regardless of any applicable contractual terms to the contrary), unless and until the STB grants discontinuance authority. Until such authority is granted, the STB retains its exclusive jurisdiction over the trackage rights, thereby trumping the ability of a third party to pursue other ways to terminate trackage rights. The permanence of these trackage rights protects both the short line railroad and the shippers located along the rail line served by the short line; they incent the railroad to make the initial and continuing investments to provide quality rail service over a line via trackage rights; and it encourages short line rail customers to make investments in their businesses and facilities.

FORMATION OF THE TWIN CITIES & WESTERN RAILROAD COMPANY

As mentioned in the previous section “Freight Rail in Saint Louis Park and the Kenilworth Corridor,” the Soo Line acquired what remained of the Milwaukee Road in 1985. This included the Milwaukee Road’s main line segment from Saint Paul to Ortonville, Minnesota. This segment was identified by Soo Line as a candidate for sale to raise cash. The founders of TC&W originally intended for the freight rail interchange to

occur in south Minneapolis, at a location just east of Hiawatha Avenue, where a freight rail yard existed.

Sometime late in the negotiations (1990 or early 1991) Hennepin County must have approached Soo Line about purchasing the 29th Street Corridor. The Soo Line changed the interchange location from south Minneapolis to St. Paul, and structured a trackage rights agreement with TC&W that enabled TC&W to get to St. Paul over the segment that Soo Line retained in its ownership, i.e. the Bass Lake Spur and the 29th Street Corridor.

The Soo Line added a condition of the sale that if the 29th Street Corridor was sold, Soo Line would be responsible for obtaining for TC&W an alternate route to St. Paul that would not cause additional operating expense. The alternate route identified was the Kenilworth Corridor.

On July 26, 1991, TC&W purchased the freight rail line from Minnetonka west to Appleton, Minnesota, and received trackage rights west to Milbank South Dakota and east of Minnetonka via the 29th Street Corridor to St. Paul, as well as trackage rights from Milwaukee Junction in Saint Louis Park (also known as “Skunk Hollow”) on the MN&S line north to reach the Upper River Terminal in north Minneapolis. In 1995 TC&W received trackage rights on the MN&S from Milwaukee Junction in St. Louis Park south to Savage, Minnesota.

On December 23, 1992, Hennepin County purchased from Soo Line the segment of the 29th Street Corridor freight rail line from France Avenue (the western border of Minneapolis) to Hiawatha Avenue. However, there was no change in rail freight operations; TC&W continued using the Bass Lake Spur and the 29th Street Corridor to St. Paul.

One issue identified in the December 23, 1992 purchase agreement between Soo Line and Hennepin County was the future reconstruction of Hiawatha Avenue and the desire by Minnesota Department of Transportation and the City of Minneapolis to eliminate the at-grade rail crossings at Hiawatha Avenue, which would save “substantial sums of money.”

A trackage rights agreement was reached between the C&NW, Soo Line and TC&W on July 26, 1993, allowing TC&W to operate its freight rail trains over the Kenilworth Corridor tracks. Sometime after that agreement was reached, the C&NW abandoned its

freight rail interest in the Kenilworth Corridor, and Hennepin County inherited the trackage rights agreement between C&NW, Soo Line and TC&W.

By mid-1997, reconstruction of Hiawatha Avenue had progressed to the point where the governing agencies desired to relocate TC&W's freight operations from the 29th Street Corridor to the Kenilworth Corridor and to sever the 29th Street Corridor rail line. In order for TC&W to agree to discontinue its trackage rights over the 29th Street Corridor, TC&W insisted that the Kenilworth track be rehabilitated to the same 25 mph standard as the 29th Street Corridor. MnDOT funded the rehabilitation of the Kenilworth rail line to a 25 mph standard; the work was completed in 1998.

It was anticipated that Minneapolis residents along the Kenilworth Corridor would protest this freight rail relocation.

The idea of a direct freight rail connection from the Bass Lake Spur to the MN&S had surfaced in about 1993. The idea may have been in response to citizen complaints in Saint Louis Park over the transfer of freight cars from the Bass Lake Spur to the MN&S line using the Skunk Hollow Wye connection. TC&W cannot find any evidence of engineering studies exploring that option until 1997, when TC&W had a professional engineer look at the issue and offer an opinion. The opinion was that to accomplish a direct connection that would work for freight rail would be very difficult.

Representative Dee Long was able to get legislation passed in 1997 that created a fund to clean up underground contamination that existed underneath where a proposed direct connection would be built – the Golden Auto/National Lead Superfund site in the northwest quadrant of the intersection of the Bass Lake Spur and the MN&S.

In August 1998, TC&W provided notice to the citizens near the Kenilworth Corridor that freight trains were coming to the neighborhood. The last TC&W train to operated over the 29th Street Corridor on August 28, 1998. The next day TC&W started operating over the Kenilworth Corridor. The TC&W received very few complaints about using this route, and continues to operate in this corridor today.

SUPPORT OF THE SOUTHWEST LIGHT RAIL TRANSITWAY PROJECT (SLRT)

Several years ago, a task force was formed to look at the concept of a passenger rail service serving the southwestern Minneapolis suburbs. TC&W was invited to participate in those discussions. At that time, the concepts under discussion were commuter rail, light rail using diesel multiple units (DMU's) or light rail powered by overhead

electricity. After several years the task force decided that light rail powered by overhead electricity was the desired passenger rail configuration.

By 2007, the task force had formed two committees: the Technical Advisory Committee and the Policy Advisory Committee. During this period, the issue of routing the passenger rail through the Kenilworth corridor was identified. There was concern that the Kenilworth rail corridor was too narrow to accommodate the bike trail, freight rail and light rail side-by-side.

Discussions took place with Hennepin County staff to study freight rail relocation. During these discussions, Hennepin County emphasized that the issues and costs of freight rail relocation could NOT be included in calculating the cost of the SLRT Project because that might tip the cost/benefit analysis done by the FTA and result in a conclusion that the cost of the light rail project would exceed the benefits.

TC&W cooperated with Hennepin County in studying freight rail relocation outside of the SLRT decision-making process, in part to show our support for the SLRT Project, and in part because TC&W believed that working constructively with Hennepin County on identification of a preferred route would yield acceptable results for the future of TC&W's freight rail customers and enable the SLRT task force to proceed with its preferred route analysis.

SLRT AND FREIGHT RAIL RE-ROUTE DISCUSSIONS

As indicated previously, TC&W has a history of constructive community involvement. When discussions began around 2004 about some kind of passenger rail service for the southwestern Minneapolis suburbs, TC&W sent a representative to participate in the discussions. By 2007, when the decision was made to pursue a light rail option powered by overhead electricity, TC&W was put into a difficult situation.

Hennepin County said that including freight rail relocation as part of the SLRT Project in its submission to the FTA for federal funding would jeopardize the cost/benefit analysis by FTA as part of its consideration for federal funding. At Hennepin County's direction, freight rail relocation discussions could not occur at the SLRT meetings, nor could it be considered as part of determining the Local Preferred Route.

It was clear, however, that Hennepin County wanted the freight rail relocated so that its preferred route through the Kenilworth Corridor would have fewer impediments. TC&W cooperated with Hennepin County to try to arrive at a track design that would be

acceptable for freight rail relocation. In 2008 Hennepin County engaged an engineering firm that visited with TC&W. TC&W emphasized that the gradients and curvature of the proposed connection of the Bass Lake Spur to the MN&S had to be comparable to the grades and curvature of TC&W's existing route or it would not be accepted by TC&W. The engineering firm presented TC&W with a conceptual design that started the ascent just east of Blake Road and, after crossing Minnehaha Creek, swung south and gently curved north. While this did not match exactly the existing grades and curvature on the Kenilworth track, it was a good starting point for continued discussions. TC&W made it clear to Hennepin County that TC&W would only discontinue its trackage rights over the Kenilworth Corridor if an alternate route with acceptable curves and grades were provided.

For reasons unknown to TC&W, a different engineering firm was employed by Hennepin County in 2009 which resulted in the rail design shown in the draft DEIS. This design was presented to TC&W in October 2010. TC&W unequivocally communicated that this design was not acceptable; it was a regression from the earlier design. TC&W also advised that it appeared the northern connection from the BNSF to the MN&S going west and southbound had unacceptable grades. This is especially troublesome because TC&W regularly runs heavy, loaded coal trains that would have to climb that grade going south on the MN&S.

TC&W was told that there would be an opportunity to formally comment on the design when the EIS was issued. An EAW was issued by Hennepin County in May 2011 that concluded an EIS was not required. TC&W's objections were ignored; the design was the same as that presented in October 2010. In its comments on the EAW, TC&W again said that the proposed design had greater grades and curvatures than those of the Kenilworth Corridor track presently used by TC&W. See Appendix C.

The EAW did not discuss or assess the increased noise and vibration from accelerating locomotives pulling heavy trains up the increased grades and around the greater curvature. The proposed design would be a longer distance for TC&W trains to travel than the present Kenilworth Corridor route which would require more fuel, equipment, and crew time. The EAW did not mention or suggest how to solve the problems that the design would increase operating and maintenance costs. The EAW said TC&W trains would be re-re-routed during a one to four-week period during construction, but failed to identify what route would be available or the impacts on TC&W and its customers from

closing down TC&W. Finally, TC&W pointed out that the safety hazards of the proposed quiet zone were inadequately considered.

In its comments in Appendix D, CP said it was largely in agreement with TC&W's comments and that the design was "operationally deficient." It noted that the EAW failed to recognize that the costs of operating and maintaining the new track, signals, and connection would be much more expensive, and that CP had not agreed to be responsible to own, operate, or maintain the new structures and track. CP also pointed out that the project design included the possibility of disturbing contaminants at the Golden Auto Superfund site.

In June 2011, the MnDOT nevertheless determined the re-route project itself did not have the potential for significant environmental impact. As to the railroads' objections to the design, MnDOT "assumed . . . that concurrence will be reached between all parties . . . answering specific design and operational issues." Findings of Fact and Conclusions, MnDOT, June 30, 2011, p. 18-19. "Concerns of grade, curvature, maintenance, ownership, operational considerations, etc. will be addressed to the satisfaction of all parties during the design review process" MnDOT continued, "Given the necessity of all parties to concur on an acceptable and workable final design prior to implementing operating agreements, regulatory filings, and the mutually desired advancement of contiguous highway and transit projects . . . this appears to be an inescapable requirement."

This decision was appealed by entities other than TC&W, but it became a moot point in September 2011 when the FTA, as part of its approval for the Southwest Transitway to enter preliminary engineering, required that the cost of freight rail relocation be included in the budget for the SLRT.

On September 2, 2011, the FTA approved the SLRT Project entering the preliminary engineering phase. The FTA approval letter required that the Met Council:

- In consultation with the FRA, determine the design requirements for adequate safety features for street-grade crossings between the SLRT line and existing freight rail tracks.
- Analyze the impacts of relocating the TC&W freight line, which currently operates on a segment of the planned SLRT route, in the project's EIS. Because the freight relocation is necessary for MC to be able to implement the SLRT project as planned, the cost and scope of the freight line relocation must be

included in the SLRT project scope and budget, regardless of the funding sources that may be identified to pay for the work.

- Analyze the reconfiguration of the CP's freight tracks where they will be elevated over the SLRT line and include the analysis in the SLRT project's EIS and cost and scope. The planned flyover, as currently designed by MC, shows sharp curvature, steep grades, and insufficient clearances.

In a February 2012 meeting with TC&W, Met Council staff said that the FTA letter had cleaned the slate of past discussions of freight rail options and that the Met Council was directed to study both co-existence of freight and light rail in the Kenilworth Corridor and a re-route of freight rail traffic onto the MN&S.

The authors of the DEIS did not comply with the FTA's directions. To date, no changes have been made in the design. The DEIS contains the same deficient design from over two years ago. The DEIS fails to discuss, much less satisfy, the cost and operating issues raised by TC&W, CP, and the FTA because the design contains the same sharp curvatures, steep grades, and insufficient clearances. The DEIS fails to satisfy the requirements of the FTA as set forth in its September 2011 letter that the DEIS must include an analysis of the freight line relocation onto the MN&S. In addition, the DEIS fails to meet certain requirements of the applicable state law, Minnesota Statutes Chapter 116D.

Since the FTA approval for preliminary engineering in September 2011 designated the Met Council as the lead agency, TC&W has met three times with Met Council staff. All three times TC&W was told our opportunity to respond would be in response to the DEIS.



ADM – Benson Quinn
701 4th Avenue South – Suite 800
Minneapolis, MN 55415-1633
Ph. 612-340-5900
Fax: 612-335-2948

December 4, 2012

Dear Hennepin County, Housing, Community Works & Transit:

I am writing to you on behalf of ADM-Benson Quinn (ADM-BQ). ADM-BQ has been providing agricultural services in the form of grain origination, merchandising and transportation services to the country elevators and farmers in south central Minnesota since 1920. We have recently made a substantial investment at Brownton, MN located on the TC&W in a greenfield grain storage and handling facility for origination of local grain production. This investment was made in partnership with United Farmers Coop.

We rely on grain origination from this region to feed ADM's export assets to supply destination markets across the globe. Rail is an integral part of this link from producer to export market. Minnesota has a long-lived, rich history of linking its farmer-producers to export markets. This linkage has become a vital part of the fabric of Minnesota's economy. A disruption to this transportation system will have an adverse effect on the agricultural economy of this region.

We have reviewed the design as recommended in the Southwest Transitway Draft Environmental Impact Statement (DEIS), which recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012, will result in increased costs for TC&W to operate its trains to and from ADM-BQ facilities. With increased competitive pressures and tightening margins, it is imperative that we continue to strive towards providing Minnesota's farming regions with the most cost-effective transportation system possible. It is critical that ADM-BQ retains the economical freight rail transportation option which is provided by TC&W. It is our understanding that TC&W has encouraged you to consider alternatives that would be less intrusive to the existing freight business and that several of these alternatives would be less costly and more conducive to serving the needs of all parties involved. Therefore, we could support the following alternatives to your recommended design:

- 1) Do engineering for the reroute that meets TC&W's engineering standards;
- 2) Co-locate the SWLRT with the current freight route;
- 3) Reroute freight back to the 29th Street Corridor, where the TC&W ran until 1998; or
- 4) Route the SWLRT up the MN&S rail line.

We are hopeful we can work together to find a solution that will yield a fair and economically viable result to benefit all parties affected. We are confident an alternative solution can be reached. We would be happy to participate in discussions towards this end.

Sincerely,

**ADM-BENSON QUINN, A DIVISION OF
ARCHER DANIELS MIDLAND COMPANY**

A handwritten signature in blue ink, appearing to read "Scott D. Nagel".
Scott D. Nagel, President

340 Michigan St. SE
P.O. Box 609
Hutchinson, MN 55350-0609



Phone: 320-587-2133
800-328-5189
Fax: 320-587-5816
www.agritradingcorp.com

November 28, 2012

Dear Hennepin County, Housing, Community Works & Transit

Attn: Southwest Transitway

We, the Agri Trading Corp. depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Agri Trading Corp. understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the Agri Trading Corp. further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012, will result in increased costs for TC&W to operate its trains to and from Agri Trading Corp.

It is important that Agri Trading Corp retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1) Do engineering for the reroute that meets TC&W's engineering standards,
- 2) Co-locate the SWLRT with the current freight route,
- 3) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Agri Trading Corp. oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in blue ink, appearing to read "Stephen Borstad".

Stephen Borstad
Agri Trading Corp.



BIRD ISLAND BEAN CO LLC

Common sense solutions for Central Minnesota's dry bean growers.

December 4, 2012

Dear Hennepin County, Housing, Community Works & Transit-Attn: Southwest Transit Way:

We, Bird Island Bean Co, LLC, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We understand that the Southwest Transit Way Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transit Way (SWLRT). We, Bird Island Bean Co, LLC, further understand, based on the information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Bird Island Bean Co.

It is imperative that Bird Island Bean Co, LLC, retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line.

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is vital to allow us in rural Minnesota to compete in the global marketplace, we respectfully request that Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and work to arrive at a acceptable design, as we depend on economical freight rail transportation.

We, Bird Island Bean Co, LLC oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation option.

Sincerely,

Larry Serbus, owner

Curt Meyer, owner

Bird Island Bean Co, LLC

**BIRD ISLAND SOIL SERVICE CENTER INC.
511 OAK AVE
BIRD ISLAND, MN 55310
320-365-3655 or 800-369-2812**

November 26, 2012

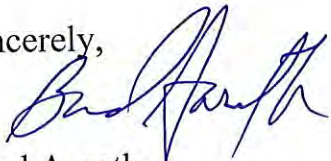
Dear Hennepin County, Housing Community Works & Transit – Attn:
Southwest Transitway:

Bird Island Soil Service Center depends on the Twin Cities & Western Railroad Company for economical freight rail transportation. Because the Southwest Transitway Draft Environmental Impact Statement recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway our rail freight will see increased costs.

We support light rail transportation, but not the current proposed route that will increase rail freight. We recommend that Hennepin County and others involved find a solution that keeps rail freight competitive. It makes no sense to us to use light rail to remove vehicles from the roadways just to add trucks, because to noncompetitive rates.

Bird Island Soil Service Center opposes the current freight rail relocation design and hope that a better solution can be found.

Sincerely,



Brad Aaseth
General Manager



CENTRAL BI-PRODUCTS

590 West Park Road
P.O. Box 319
Redwood Falls, Minnesota 56283-0319

Phone: 507-637-2938
Fax: 507-637-5409
www.centralbi.com

December 3, 2012

Hennepin County, Housing, Community Works & Transit
Attn: Southwest Transitway

Dear Hennepin County, Housing, Community Works & Transit:

Central Bi-Products depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. Central Bi-Products understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). Central Bi-Products further understands, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Central Bi-Products.

It is imperative that Central Bi-Products retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards.
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line.

Therefore, we recommend that Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend that Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design as we depend on economical freight rail transportation.

Central Bi-Products opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommends that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,
Central Bi-Products

Duane Anderson
Chief Operating Officer

11/27/12

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Central Bi-Products depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Central Bi-Products understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Central Bi-Products further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Central Bi-Products.

It is imperative that Central Bi-Products retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:


- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Central Bi-Products oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, appearing to be a stylized 'C' followed by 'B' and 'P'.

Central Bi-Products

Clinton Co-op Farmers Elevator Association

Box 371
Clinton, Minnesota 56225

NOV 28, 2012

Phone: (507) 325-5404
Fax: (507) 325-5405

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Clinton Elevator depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Clinton Elevator understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Clinton Elevator further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Clinton Elevator.

It is imperative that Clinton Elevator retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Clinton Elevator oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Ben Schumme, Manager

Clinton Elevator

Sandy Gillespie
Grain Buyer



December 3, 2012

Dear Hennepin County Housing, Community Works & Transit – Attn: Southwest Transitway:

Cloud Peak Energy depends on Twin Cities & Western Railroad Company (TC&W) for economical freight transportation into Minnesota. We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends relocation of the freight rail route used by TC&W to accommodate the Southwest Light Rail Transitway (SWLRT). We have been informed by TC&W that the recommended freight rail relocation design in the preferred alternative LRT3A as shown in the DEIS released on October 12, 2012 would result in increased costs for TC&W to operate its trains to and from our delivery points.

TC&W provides an economical freight transportation option for us to bring product to many areas of Minnesota. We fear that increased operational costs on TC&W related to this change will be passed on to our customers. This would limit the ability to economically bring product into many areas of Minnesota served by TC&W and its logistics chain, which would have a negative socio-economic impact on businesses and the regional economies in those areas, likely resulting in net negative economic impacts against the projected localized development surrounding alignment and station areas with the preferred alternative.

We understand that TC&W may have some solutions that work for both the SWLRT and TC&W's freight rail operations, some of which were alternatives considered under the DEIS. The potential solutions TC&W has described to us include (1) co-locating the SWLRT with the current freight route, (2) re-routing the freight back to the 29th Street corridor, where TC&W ran until 1998, (3) routing the SWLRT up the MN&S rail line or (4) engineering a re-route of the freight rail that meets TC&W's engineering standards. For the benefit of our customers and their communities in Minnesota, we respectfully ask that you consider alternative proposals provided by TC&W that can address concerns related to the SWLRT and still allow TC&W to continue operations in an economical manner.

Sincerely,

Cloud Peak Energy Resources LLC

By: 

Name: Jim Orchard

Title: Sr. Vice President, Marketing and Government Affairs

on behalf
of

12/3/2012



November 26, 2012

Dear Hennepin County, Housing, Community Works & Transit – Attn: Southwest Transitway:

We, Coop Country Farmers Elevator (CCFE) depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. CCFE understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). CCFE further understands, based on the information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC & W to operate its trains to and from CCFE.

It is imperative that CCFE retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1) Do engineering for the reroute that meets TC&W's engineering stands,
- 2) Co-locate the SWLRT with the current freight route,
- 3) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 4) Route the SWLRT up the MN&S rail line

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

CCFE opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Craig Hebrink
President & CEO

Corona Grain & Feed

PO Box 107

Phone: 605-432-6206

Corona, SD 57227

Fax: 605-432-9282

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, The Corona Grain & Feed, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Corona Grain & Feed understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the Corona Grain & Feed further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Corona Grain & Feed.

It is imperative that Corona Grain & Feed retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1) Do engineering for the reroute that meets TC&W's engineering standards,
- 2) Co-locate the SWLRT with the current freight route,
- 3) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 4) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Sincere rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Corona Grain & Feed oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,



Jerry Settje, Manager

Corona Grain & Feed



November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit-ATTN: Southwest Transitway

The Dairy Farmers of America Winthrop, MN dairy plant depends on the TC&W for providing our dairy plant with the lowest cost butter fat and other dairy ingredients we need to produce our finished goods butter oil. The Winthrop, MN butter oil is exported internationally to fifteen countries. The Winthrop plant also requires up to (7) seven truckloads per week of locally produced Renville sugar. Without the TC&W rail service our raw material costs would be 20% higher due to the higher costs of truck rates versus rail rates. Any higher rail rates jeopardize the future jobs of the sixty (60) employees working at the Winthrop, MN plant.

The Dairy Farmers of America Winthrop, MN plant understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the SWLT. We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for the TC&W to operate its trains to and from the Dairy Farmers of America Winthrop, MN plant.

It is imperative that the Dairy Farmers of America Winthrop, MN plant retain an economical freight rail transportation option which is provided by the TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards
2. Co-locate the SWLRT with the current freight route
3. Reroute freight back to the 29th St Corridor, where TC&W ran until 1998 or
4. Route the SWLRT up the MN&S rail line

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota we recommend Hennepin County and the Met Council reject the freight design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

The Dairy Farmers of America Winthrop, MN plant opposes the freight rail relocation design recommendation in the DEIS based on the information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely

A handwritten signature in black ink that reads 'Tom Otto'.

Tom Otto
Plant Manager

December 3, 2012



Dear Hennepin County, Housing, Community Works & Transit-ATTN: Southwest Transit:

We, Equity Elevator & Trading Co. depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Equity Elevator & Trading Co. understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the South Light Rail Transitway (SWLRT). We the Equity Elevator & Trading Co. further understand, based on information provided by TC&W, that the recommended freight rail location design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Equity Elevator & Trading Co..

It is imperative that Equity Elevator & Trading Co. retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do the engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TCW ran until 1998 or
- 4.) Route the SWLRT up to the MN&S

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in DEIS. And work with the DEIS to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Equity Elevator & Trading Co. oppose the freight rail relocation design recommendation in the DEIS based on information provided by TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodney Winter".

Rodney Winter, General Manager

Equity Elevator & Trading Company



Farmers Co-operative Elevator Co.

1972 510th Street
P.O. Box 59
Hanley Falls, MN 56245-0059
507-768-3448

Cottonwood	507-423-6235
Echo	507-925-4126
Ghent	507-428-3255
Granite Falls	320-564-3834
Minneota	507-872-6134
Minnesota Falls	320-564-3835
Montevideo	320-269-6531
Taunton	507-872-6161

December 3, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

The Farmers Co-operative Elevator Company of Hanley Falls (FCE) depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. FCE understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from our locations at Montevideo, Granite Falls, Echo and Minnesota Falls.

It is imperative that FCE retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation.

Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

On behalf of our two thousand Patron/Owners, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

The Farmers Co-operative Elevator Company of Hanley Falls along with our Patron/Owners oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Scott Dubbelde, General Manager

FARMERS UNION CO-OP OIL COMPANY

CENEX

MONTEVIDEO GRANITE FALLS



MONTEVIDEO, MINNESOTA 56265
Phone: (320) 269-8861
124 West Nichols Ave

GRANITE FALLS, MINNESOTA 56241
Agri Center: (320) 564-3833
C-Store: (320) 564-2525

December 3, 2012

Dear Hennepin County, Housing, Community Works & Transit – Attn: Southwest Transitway:

We, the Farmers Union Coop Oil Company depend on the Twins Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Farmers Union Coop Oil Company understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the Farmers Union Coop Oil Company further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Farmers Union Coop Oil Company.

It is imperative that Farmers Union Coop Oil Company retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line.

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Farmers Union Coop Oil Company oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, appearing to read "Glen C. Moe", written in a cursive style.

Glen C. Moe, General Manager
Farmers Union Coop Oil Company
124 W Nichols Ave
Montevideo, MN 56265



Farmers Cooperative Oil Company

P.O. Box 157
461 2nd Avenue West,
Echo, MN 56237-0157
Phone 507-925-4114 • Fax 507-925-4159

Belview C-Store
507-938-3069

Belview Electric
507-938-4133

Sacred Heart C-Store
320-765-2752

December 5, 2012

Dear Hennepin County, Housing, Community Works & Transit
Attn: Southwest Transitway:

We, the Farmers Coop Oil & Fertilizer depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Farmers Coop Oil & Fertilizer understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the Farmers Coop Oil & Fertilizer further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Farmers Coop Oil & Fertilizer.

It is imperative that Farmers Coop Oil & Fertilizer retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards.
2. Co-locate the SWLRT with the current freight route,
3. Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.


We, the Farmers Coop Oil & Fertilizer oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC& W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Jon Ahrens
Farmers Coop Oil & Fertilizer

JA/dk

FGDI

A Division of  AGREX INC.

300 Highway 169 South, Suite 360
St Louis Park MN 55426-1119
952-852-2999 Phone, 952-852-2998 Fax

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit - Attn: Southwest Transitway:

FGDI depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). Based on information provided by the TC&W, the recommended freight rail relocation design as shown in the DEIS released October 12, 2012 will result in increased costs for TC&W to operate its trains.

It is very important that FGDI retain an economical freight rail transportation option as provided by the TC&W. The design recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards,
2. Co-locate the SWLRT with the current freight route,
3. Reroute freight back to the 29th Street corridor, where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line.

Rural Minnesota provides a significant amount of exports from the State of Minnesota and economical freight rail transportation is vital to allow rural Minnesota to compete in the global marketplace. Hennepin County and the MET Council should reject the freight rail design as recommended in the DEIS and arrive at an acceptable design.

We strongly urge Hennepin County and the MET Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Sincerely,

Bob Mortenson
Dwayne Meier
Dan Halverson
Beth Grashorn

FGDI A Division of Agrex Inc



Tech Service / Marketing Fax 320-562-2834
Phone 320-562-2413 • Toll Free 1-800-422-3649 • Fax 320-562-2125
www.formafeed.com

December 4, 2012

Hennepin County, Housing, Community Works & Transit
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

Dear Hennepin County, Housing, Community Works & Transit – Attn: Southwest Transitway:

Form-A-Feed, Inc is located in Stewart, MN and we rely on the Twin Cities & Western Railroad Company for economical freight rail transportation. We understand that the recommended freight rail relocation design as shown in the DEIS released October 12, 2012 will result in increased costs for TC & W to operate its trains to Stewart, MN. Several businesses in greater Minnesota rely on this railway to maintain a competitive edge in the market place and these changes will increase costs to our businesses.

It is important to Form-A-Feed to retain an economical freight rail transportation provided by TC & W. The design recommended in the DEIS will not help us maintain our competitiveness. After correspondence with TC & W we have alternatives to your recommended design:

- Do engineering for the reroute that meets TC & W's engineering standards
- Co-locate the SWLRT with the current freight rout
- Reroute freight back to the 29th St Corridor, where TC & W ran until 1998
- Route the SWLRT up the MN&S rail line

We recommend Hennepin County and the Met Council address TC & W's concerns over the design of the freight rail relocation and find a solution that is economical for all parties.

Rural Minnesota provides a significant amount of exports from the State of Minnesota and economical freight rail transportation is imperative to allow us to compete in the global marketplace. We oppose the freight rail relocation design recommendation and recommend that the freight rail issues be resolved to preserve an economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Schuette", is written over a horizontal line.

Larry Schuette
General Manager, Form-A-Feed, Inc



December 3, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Glacial Plains Coop, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Glacial Plains Coop, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the Glacial Plains Coop, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Glacial Plains Coop.

It is imperative that Glacial Plains Coop retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards,
2. Co-locate the SWLRT with the current freight route,
3. Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Glacial Plains Coop, oppose the freight rail relocation design recommendation in the DEIS based on the information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Tom Traen

General Manager, Glacial Plains Cooperative

T 320-875-2811 ♦ F 320-875-2813 ♦ 543 Van Norman Ave. ♦ Murdock, MN 56271

Benson (Station) 320-843-3999	(Energy) 320-842-5311	Benson (Agronomy) 320-843-4820	Benson West 320-843-2563 320-843-3285	DeGraff 320-843-5364	Kerkhoven 320-264-3831	Milan 320-734-4435	Murdock (Agronomy) 320-875-2810	Sunburg 320-366-3456
-------------------------------------	--------------------------	--------------------------------------	---	-------------------------	---------------------------	-----------------------	---------------------------------------	-------------------------



Glacial Plains Cooperative

Partners you can count on

www.glacialplains.com

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit:

Attention: Southwest Transitway

We at Glacial Plains Cooperative depend on the Twin Cities and Western Railroad Company (TC&W) for economical freight rail transportation. Glacial Plains Coop understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We also understand, based on information provided by TC&W, the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012, will result in increased costs for TW&W to operate trains to and from Glacial Plains Cooperative.

It is imperative that Glacial Plains Coop retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards.
2. Co-locate the SWLRT with the current freight route.
3. Reroute freight back to the 29th Street Corridor, where TC&W ran until 1998.
4. Route the SWLRT up the MN&S rail line.

We recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State to Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design. Glacial Plains Cooperative depends on economical freight rail transportation.

Glacial Plains Cooperative opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Lois Lovehaug
Glacial Plains Cooperative

T 320-875-2811 ♦ F 320-875-2813 ♦ 543 Van Norman Ave. ♦ Murdock, MN 56271

Benson [Station]	(Energy) 320-842-5311	Benson [Agronomy]	Benson West 320-843-2563	DeGraff 320-843-5364	Kerkhoven 320-264-3831	Milan 320-734-4435	Murdock [Agronomy]	Sunburg 320-366-3456
---------------------	--------------------------	----------------------	-----------------------------	-------------------------	---------------------------	-----------------------	-----------------------	-------------------------



GRANITE FALLS ENERGY, LLC

15045 HIGHWAY 23 SE • P.O. BOX 216 • GRANITE FALLS, MN • 56241-0216

PHONE: 320-564-3100 • FAX: 320-564-3190

11/26/2012

Dear Hennepin County, housing, Community Works and Transit- ATTN: Southwest Transitway:

Granite Falls Energy depends on the Twin Cities & Western Railroad Company for economical freight rail transportation. We at Granite Falls Energy understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the SWLRT. We further understand, based on information provided by the TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased cost for the TC&W to provide trains to and from Granite Falls Energy.

It is imperative that Granite Falls Energy retains an economical freight rail option which is provided by the TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1) Do engineering for the reroute that meets TC&W's engineering standards,
- 2) Co-locate the SWLRT with the current freight route,
- 3) Reroute freight back to the 29th Street corridor, where TC&W ran until 1998, or
- 4) Route the SWLRT up to the MN&S rail line.

We recommend that Hennepin County and the Met Council address the TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Rural Minnesota in general, and Granite Falls Energy specifically, provide a significant amount of exports from the State of Minnesota and having economical freight rail transportation is imperative to allow us to compete in the global marketplace. Due to this we recommend that Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design.

Granite Falls Energy opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Eric M Baukol
Granite Falls Energy, LLC

[Date] 11-26-12

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Hanley Falls Farmers Elevator depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Hanley Falls Farmers Elevator understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Hanley Falls Farmers Elevator further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Hanley Falls Farmers Elevator.

It is imperative that Hanley Falls Farmers Elevator retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Hanley Falls Farmers Elevator oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,



[Name]

Hanley Falls Farmers Elevator

[Date] 11-26-12

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Hanley Falls Farmers Elevator depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Hanley Falls Farmers Elevator understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Hanley Falls Farmers Elevator further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Hanley Falls Farmers Elevator.

It is imperative that Hanley Falls Farmers Elevator retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Hanley Falls Farmers Elevator oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,


[Name] Ben Hedtke
Hanley Falls Farmers Elevator



HEARTLAND CORN PRODUCTS

53331 State Hwy. 19 • P.O. Box A • Winthrop, MN 55396
Phone: 507-647-5000 • Fax: 507-647-5010

November 26, 2012

Hennepin County
Housing, Community Works & Transit
Attn: Southwest Transitway

Dear Southwest Transitway,

Heartland Corn Products ("Heartland"), a cooperative located in Sibley County, depends on Twin Cities & Western Railroad Company ("TC&W") for economical freight rail transportation. Heartland understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Heartland.

It is imperative that Heartland retains an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

Heartland opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Scott Blumhoefer
Vice President



L.G. EVERIST, INC.
ROCK SOLID SINCE 1876

300 S. PHILLIPS AVENUE, SUITE 200
P.O. Box 5829
SIOUX FALLS, SD 57117-5829
PHONE 605-334-5000 • FAX 605-334-3656

December 4, 2012

Hennepin County, Housing, Community Works & Transit

Attn: Southwest Transitway

L.G. Everist, Inc. (LGE) depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. It is our understanding that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from LGE.

It is imperative that LGE retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards,
2. Co-locate the SWLRT with the current freight route,
3. Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line.

LGE is asking and recommending that Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design. LGE depends on economical freight rail transportation and opposes the freight rail relocation design recommended in the Southwest Transitway DEIS.

Sincerely,

Rob Everist
President and CEO



L.G. EVERIST, INC.

ROCK SOLID SINCE 1876

300 S. PHILLIPS AVENUE, SUITE 200

P.O. Box 5829

SIOUX FALLS, SD 57117-5829

PHONE 605-334-5000 • FAX 605-334-3656

December 4, 2012

Hennepin County, Housing, Community Works & Transit

Attn: Southwest Transitway

L.G. Everist, Inc. (LGE) depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. It is our understanding that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from LGE.

It is imperative that LGE retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards,
2. Co-locate the SWLRT with the current freight route,
3. Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line.

LGE is asking and recommending that Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design. LGE depends on economical freight rail transportation and opposes the freight rail relocation design recommended in the Southwest Transitway DEIS.

Sincerely,

Rick Everist
Chairman of the Board



THOMAS P. LOWE
Chairman

JAMES E. HURD
President

300 MORSE AVENUE • MAILING ADDRESS P.O. BOX 40 • EXCELSIOR, MN 55331 • TELEPHONE (952) 470-3600 • FAX (952) 470-3610

December 3, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

Lyman Lumber Company depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Lyman Lumber Company.

In the past 10 years, Lyman Lumber Company has received over 3800 rail cars and it is imperative that Lyman Lumber Company retain an economical freight rail transportation option which is provided by TC&W. Not having economical freight rail transportation would cause significant economic harm to our company. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards,
2. Co-locate the SWLRT with the current freight route,
3. Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line.

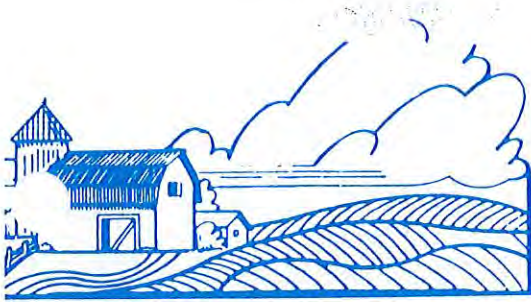
Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global market place, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

Lyman Lumber Company opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Dale Carlson
President
Lyman Lumber Company



Meadowland Farmers Coop

P.O. BOX 338
LAMBERTON, MINNESOTA 56152
OFFICE 752-7352

Serving the Community Since 1905

November 26, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Meadowland Farmers Coop depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Meadowland Farmers Coop understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Meadowland Farmers Coop further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Meadowland Farmers Coop.

It is imperative that Meadowland Farmers Coop retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Meadowland Farmers Coop oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Peter Valentin
Meadowland Farmers Coop



November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit - ATTN: Southwest Transitway:

We at Midwest Asphalt Corporation depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight transportation. We also understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). Midwest Asphalt Corporation further understands, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Midwest Asphalt facilities.

It is imperative that Midwest Asphalt Corporation retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

Midwest Asphalt Corporation opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,
MIDWEST ASPHALT CORPORATION


Blair B. Bury,
President



December 7, 2012

To: Hennepin County Housing, Community Works & Transit
(Southwest Transitway)

The Minnesota Grain and Feed Association, which represents the interests of over 300 grain elevator, feed mill and farm supply firms operating in Minnesota, wishes to go on record in opposition to the rail freight relocation design recommendation contained in the Draft Environmental Impact Statement (DEIS). It is obvious that the DEIS recommendation will have a negative impact on the Twin City & Western Railroad (TC&W) and ultimately on the cost of freight transportation being incurred by the numerous grain elevator and farm supply firms located on the TC&W.

Several elevators on the line have invested millions in upgrades to improve their train loading efficiency. These elevators now have the capability to compete in the domestic and international movement of grain via the TC&W. The rerouting of freight traffic to accommodate the SWLRT system as currently proposed, will add unnecessary costs to the infrastructure and will certainly have an adverse impact on all rail users, in terms of increased operational costs by the railroad, reduced travel times and safety concerns with the design recommendations. Again, we question much of the content in the DEIS and suggest going back to the drawing board, to come up with a better solution than the one being proposed.

Fortunately the EIS is a draft, since it is obvious that more attention needs to be given to the impacts on the operating freight railroad and its many users, who provide hundreds of jobs, pay the bulk of the taxes in many communities along the line, offering market access for thousands of farmers and economic stability for the region. Thank you for your consideration of our views on the DEIS.

Sincerely,

Bob Zelenka
Executive Director

November 28, 2012
[Date]

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Minnesota Valley Regional Rail Coalition depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Minnesota Valley Regional Rail Coalition understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from .

It is imperative that Minnesota Valley Regional Rail Coalition retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,



[Name] *Chair*

Minnesota Valley Regional Rail Coalition



The Mosaic Company
12120 Lynn Ave
Savage, MN 55378
www.mosaicco.com

December 3, 2012

Hennepin County Housing, Community Works & Transit
Attn: Southwest Transitway

To Whom it Concerns:

As one of the largest companies headquartered in Minnesota, The Mosaic Company, is dedicated to responsibly serving our customers around the world. Farmers in 40 countries depend on our crop nutrients to increase their yields and feed a rapidly growing global population. Likewise, we depend on strong business partners, including Twin Cities & Western Railroad (TC&W), to remain competitive. By working together to serve our customers in south central Minnesota, we also strengthen their communities and their local economies.

The Draft Environmental Impact Statement for the Southwest Light Rail Transit System indicates that the project, as it is currently contemplated, could imperil our ability to serve this area.

Mosaic supports the project and the myriad benefits it provides for businesses and commuters all over the metro area -- and for the health of our environment. However, we are concerned about the proposed freight rail route relocation, because its design would likely result in slower service and higher costs due to the need for extra locomotives and fuel to navigate the proposed route. (The current recommended design adds a significant climb up a steep grade by freight rail standards, as well as tight track curvature.)

Alternatives to your recommended design could include:

- Engineer the re-route so that it meets TC&W's engineering standards;
- Co-locate the SWLRT with the current freight route;
- Re-route freight back to the 29th Street Corridor, where TC&W ran until 1998; or
- Route the SWLRT up the Minneapolis, Northfield & Southern rail line.

Mosaic ships tens of thousands of tons of fertilizer into south central Minnesota by rail every year. This is an important supply route for Mosaic and our customers.

We are confident that an alternative design can serve all parties -- while remaining true to our shared desire to enhance Minnesota's economic opportunities and preserve the environment. We encourage you to revisit your freight rail route design, and offer our support in this endeavor.

Sincerely,


Lisa Brickey
Warehouse Manager



December 4, 2012

Hennepin County Housing, Community Works & Transit Department
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415-1842

To Whom It May Concern:

We, RPMG Inc., depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, RPMG Inc., understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We RPMG Inc., further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from RPMG Inc.

It is imperative that RPMG Inc. retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards;
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Metropolitan Council (Met Council) address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

Hennepin County Housing, Community Works & Transit Department

Letter of Opposition

Page 2

December 4, 2012

We, RPMG Inc., oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, reading "Douglas E. Punke". The signature is written in a cursive style with a large, stylized 'D' and 'P'.

Douglas E. Punke, CEO
RPMG Inc.

cc: Jason Wojahn, Director of Logistics, RPMG Inc.

DEP:amo



Seneca Foods Corporation

Hennepin County Housing

Community Works and Transit

Attn: Southwest Transit way:

The Seneca Foods Glencoe Facility relies on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. Seneca Foods understands that the Southwest Transit way Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transit way (SWLRT). Seneca Foods further understands, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Seneca Foods.

It is imperative that Seneca Foods retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1) Do engineering for the reroute that meets TC&W's engineering standards,
- 2) Co-located the SWLFT with the current freight route,
- 3) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4) Route the SWLRT up the MN&S rail line.

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

Seneca Foods Corporation opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Andy Slinden

Plant Manager - Glencoe



101 West 8th Street – Glencoe, Minnesota 55336
Phone (320) 864-3151 Fax (320) 864-5779



Seneca Foods Corporation
Vegetable Division

December 4, 2012

Hennepin County, Housing, Community Works and Transit

Attn: Southwest Transitway:

The Seneca Foods Arlington Facility relies on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. Seneca Foods understands that the Southwest Transit way Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transit way (SWLRT). Seneca Foods further understands, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Seneca Foods.

It is imperative that Seneca Foods retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1) Do engineering for the reroute that meets TC&W's engineering standards,
- 2) Co-located the SWLFT with the current freight route,
- 3) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4) Route the SWLRT up the MN&S rail line.

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

Seneca Foods Corporation opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Rick Rose

Warehouse Manager

Seneca Plant

Arlington, Minnesota



Fairfax
PO Box E
Fairfax, MN 55332
507-426-8263

Gibbon
40 W. Park Drive
Gibbon, MN 55335
507-834-6534

Hector
PO Box 338
Hector, MN 55342
320-848-2273

Buffalo Lake
PO Box 99
Buffalo Lake, MN 55314
320-833-5321

Cosmos

Lake Lillian

Darwin

Stewart

Eden Valley

December 3, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, South Central Grain and Energy, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, South Central Grain and Energy, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, South Central Grain and Energy, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from South Central Grain and Energy.

It is imperative that South Central Grain and Energy retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

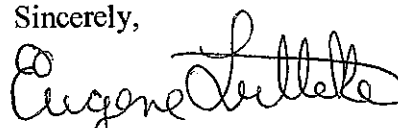
Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota and, since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

South Central Grain and Energy is not opposed to the light rail project but we cannot have it happen at the expense of our farmer producers and South Central Grain and Energy. The current plan will cost our farmers millions and millions of dollars over the years.

We, South Central Grain and Energy, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene Lutteke". The signature is fluid and cursive, with a large initial "E" and a long, sweeping underline.

Eugene Lutteke
General Manager
South Central Grain and Energy



Southern Minnesota Beet Sugar Cooperative

P. O. Box 500, 83550 County Road 21, Renville, Minnesota 56284

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

My name is Kelvin Thompsen and I serve as President and CEO of Southern Minnesota Beet Sugar Cooperative (SMBSC). The cooperative is owned by 525 shareholders who produce 3.5 million tons of sugar beets from the nearly 120,000 acres in which they farm in West Central Minnesota. These same shareholders own the sugar factory, located in Renville, which processes their 3.5 million tons of sugar beets into more than 450,000 tons of pure white sugar and 300,000 tons of co-products including sugar beet pulp pellets, dried pulp shreds, pressed sugar beet pulp, betaine, raffinade and molasses. SMBSC employs 750 people and our annual payroll exceeds \$17 million annually. We estimate the total stimulus to the economy of West Central Minnesota which is generated by SMBSC is nearly three quarters of a billion dollars.

SMBSC and the 525 farm families depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation to ship a large portion of the 750,000 tons of finished product to our end use customers. SMBSC also relies heavily upon the TC&W Railroad Company for the inbound transportation of essential processing commodities such as coal, coke and lime rock required for the processing of sugar beets into pure, white sugar. SMBSC's inbound freight tonnage is nearly 300,000 tons. Economical rail transportation is key to SMBSC's sustainability today and for the future. SMBSC understands the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). SMBSC further understands, based on information provided by TC&W, the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from SMBSC's factory located in Renville, Minnesota.

It is imperative that SMBSC retain the economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

SMBSC respectfully recommends Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design.

SMBSC opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W. SMBSC recommends the freight rail issues be resolved to preserve our economical freight rail transportation and the future sustainability of SMBSC and its 525 farm families.

Thank you for your consideration of this most important matter.

Sincerely,

A handwritten signature in blue ink that reads "Kelvin Thompsen". The signature is fluid and cursive, with the first name "Kelvin" and last name "Thompsen" clearly distinguishable.

Kelvin Thompsen
President and CEO

 <p>Step Saver, Inc.TM Salt Pumping Systems <i>Salt delivery made easy.</i></p>	<p>36327 US HWY 71 Redwood Falls, MN 56283 Toll Free: 888-783-7728 Email step@redred.com Fax: 507-644-2184</p>
--	---

11-26-2012

Dear Hennepin County, Housing, Community Works & Transit
ATTN: Southwest Transitway

We, at Step Saver Inc depend on the TCWR for economical freight rail transportation. We at Step Saver Inc understand that that the DEIS recommends a relocation of the freight rail route to accommodate the Southwest light Rail Transitway. Step Saver Inc also understands that based on information provided by the TCWR that was released by the DEIS on 10-12-2012, that this will result in increased costs for the TCWR to operate its trains to deliver product for Step Saver Inc.

It is imperative that that Step Saver Inc retain an economical freight rail transportation option which is now provided by the TCWR. The design provided and recommended by the DEIS in not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommendation would be:

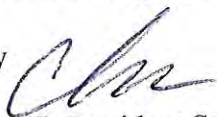
- 1.) Do engineering for the reroute that meets TCWR engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St corridor, where TCWR ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line.

Step Saver Inc recommends Hennepin County and the met Council address TCWR concerns over the design of the freight rail relocation shown in the DEIS, and work with TCWR to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides significant amount of exports from the state of MN, and since having economical freight rail transportation is imperative to allow rural MN to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, at Step Saver Inc oppose the freight rail relocation design recommendation in the EDIS base on the information provided by the TCWR and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely



Chuck Steffl, President Step Saver Inc



December 3, 2012

Hennepin County, Housing, Community Works & Transit
ATTN: Southwest Transitway

Western Consolidated Cooperative depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Western Consolidated Cooperative.

It is imperative that Western Consolidated Cooperative retain an economical freight rail transportation option, as provided by TC&W and the design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design might be:

- 1) Engineer a reroute that meets TC&W's engineering standards,
- 2) Co-locate the SWLRT with the current freight route,
- 3) Reroute freight back to the 29th St Corridor where TC&W ran until 1998, or
- 4) Route the SWLRT up the MN&S rail line

We recommend that Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Rural Minnesota organizations like ours provide a significant amount of exports from the State of Minnesota and maintaining economical freight rail transportation is imperative in allowing us to remain competitive in the global marketplace. At this time, we strongly recommend that the Hennepin County and the Met Council **REJECT** the freight rail design as recommended in the DEIS and arrive at an acceptable design.

We oppose the freight rail relocation design recommendation in the DEIS and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Paul Mattson

Paul Mattson, Grain Division Manager
Western Consolidated Cooperative



your farm ... your community ... your co-op

December 3, 2012

Hennepin County, Housing, Community Works & Transit
ATTN: Southwest Transitway

Western Consolidated Cooperative depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Western Consolidated Cooperative.

It is imperative that Western Consolidated Cooperative retain an economical freight rail transportation option, as provided by TC&W and the design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design might be:

- 1) Engineer a reroute that meets TC&W's engineering standards,
- 2) Co-locate the SWLRT with the current freight route,
- 3) Reroute freight back to the 29th St Corridor where TC&W ran until 1998, or
- 4) Route the SWLRT up the MN&S rail line

We recommend that Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Rural Minnesota organizations like ours provide a significant amount of exports from the State of Minnesota and maintaining economical freight rail transportation is imperative in allowing us to remain competitive in the global marketplace. At this time, we strongly recommend that the Hennepin County and the Met Council **REJECT** the freight rail design as recommended in the DEIS and arrive at an acceptable design.

We oppose the freight rail relocation design recommendation in the DEIS and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Dean Isaacson

Dean Isaacson, General Manager
Western Consolidated Cooperative



Western Co-op Transport Association

BOX 327

MONTEVIDEO, MINNESOTA 56265

PHONE 320-269-5531

1-800-992-8817

November 27, 2012

Hennepin County, Housing, Community Works & Transit

Dear Southwest Transitway:

I've been following the Southwest Light Rail Transitway (SWLRT) with much interest. Our community is on Highway 212 in Western Minnesota, so I look forward to the day when we can jump on the light rail in Eden Prairie. Two of my sons are in business in Minneapolis and another attends the University of Minnesota, as my daughter did. There is much for you to consider - thus the reason for my letter.

I've seen that the SWLRT Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the SWLRT. Based on the information provided by Twin Cities & Western Railway (TC&W), the recommended freight rail relocation design as shown in the DEIS from October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Western Minnesota.

Western Co-op Transport Association (WCTA) is a cooperative owned by 124 local grain, agronomy and energy cooperatives. We provide service to our members with over 300 semi trucks and trailers. Many of our member/owners are also shippers on the TCWR for their business. Economical rail service is vital to their survival. Our rail structure is as important to our communities as having schools, roads and a hospital.

When the Milwaukee Road sold off its land and track, Montevideo and other communities in our region worked to save the rail service. We fought to prevent our track from being torn out or paved over. It is imperative Western Minnesota retain an economical freight rail transportation option which is provided by TC&W - the only rail service in our communities.

The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards
2. Co-locate the SWLRT with the current freight route
3. Reroute freight back to the 29th St corridor, where TC&W ran until 1998
4. Route the SWLRT up the MN&S rail line

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Light rail improves the quality of life for riders by giving them another choice. It would be ironical that by forcing the DEIS relocation on TCWR as outlined, those of us in Western Minnesota will have less choice by taking away the most economical freight transportation we have.

Thank-you for your consideration on this and your hard work,

Respectfully,

Dennis Brandon, General Manager



Monday, December 03, 2012

Dear Hennepin County, Housing, Community Works & Transit- ATTN: Southwest Transitway:

We, the Wheaton-Dumont Coop Elevator depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Wheaton-Dumont Coop Elevator understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Wheaton-Dumont Coop Elevator further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Wheaton-Dumont Coop Elevator.

It is imperative that Wheaton-Dumont Coop Elevator retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight routes,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on the economical freight rail transportation.

We, the Wheaton-Dumont Coop Elevator oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Philip Deal
Wheaton-Dumont Coop Elevator

B. 605-448-2261 • Campbell 218-630-5344 • Dumont 320-563-8020 • Dumont Ag 320-563-8822 • Hankinson 701-242-7543 • LaMars 701-474-5976
• Mantador 701-242-7022 • New Effington Ag 605-637-5241 • Sisseton Feed Store 605-698-3491 • Sisseton North 605-698-3221
• Sisseton South 605-698-3251 • Tenney 218-630-5556 • Wheaton 320-563-1130 • Wheaton Ag 320-563-8181



705 E. 4th Street; PO Box 461; Winthrop MN 55396
507-647-6600 or 866-998-3266
Fax: 507-647-6620

People....Pride....Purpose....
"Since 1915"

November 30, 2012

Dear Hennepin County, Housing, Community Works & Transit:

RE: SOUTHWEST TRANSITWAY

I am writing to you on behalf of the communities and members that own United Farmers Cooperative (UFC). We are a member owned cooperative that serves nearly 10,000 customers across a dozen communities in south central Minnesota. UFC has been in existence since 1915, providing necessary goods and services such as agricultural inputs, home heating and markets for grain.

In the past 20 years, UFC has invested over 60 million dollars of member owned capital in upgrading infrastructure to provide better access and markets for the farmers and consumers that we serve. Most of these facilities have been strategically located to effectively use rail service that is provided by Twin Cities & Western Railroad Company (TC&W). Just this past year, UFC and its members invested nearly 30 million dollars to build a world class grain handling facility near Brownton MN. This facility will significantly reduce the metro truck traffic while at the same time greatly enhancing marketing options for Minnesota's agricultural production.

UFC depends on the TC&W for economical freight rail transportation. UFC understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). UFC further understands, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from UFC. These costs are not only monetary in nature but operationally challenging as well.

We fully understand and support the logic and efficiencies that you are hoping to gain on further expansion of the light railway. It follows the same logic that we have applied in locating our facilities along the rail. It is both economically and environmentally sound as well as significantly more efficient. However, we do not believe that it makes sense to address the transportation needs for the Twin Cities and metro area's at the expense of adversely affecting what we have built for the last several decades in rural Minnesota. In UFC's case, we even helped invest in rehabilitation of the railroad tracks known as the Minnesota Prairie Line. The access to competitive and reliable rail has meant great economic development in our small community and has added many jobs in addition to the economic gains for our Minnesota farmers.

It is our understanding that TC&W has encouraged you to look at several alternatives that would be less intrusive on the existing freight business and that several alternatives exist that would be less costly and more conducive to serving the needs of all parties in this situation. We are asking that Hennepin County and the Met Council meet with TC&W and work out a more mutually beneficial plan. I have spent considerable time looking at these options and I really believe a compromise that is fair and mutually respectful can be reached.

We would be happy to participate in these discussions if we can be of any assistance or relevance in this matter. The current proposal would put considerable economic and operational obstacles in place and needs to be reviewed and adjusted to be fair to all those that are affected. We hope that you will consider everyone's needs in this matter and work together for the solution.

Sincerely,

Jeff J. Nielsen
General Manager/CEO

OUR PURPOSE

To supply our customers with technology, products, and services in a manner that is extraordinary enough to add value to their lives.



705 E. 4th Street; PO Box 461; Winthrop MN 55396
507-647-6600 or 866-998-3266
Fax: 507-647-6620

People....Pride....Purpose....
"Since 1915"

November 30, 2012

Dear Hennepin County, Housing, Community Works & Transit:

RE: SOUTHWEST TRANSITWAY

I am writing to you today on behalf of the United Farmers Cooperative. We serve nearly 1300 agronomy customers across south central Minnesota.

In 2008 we invested 7 million dollars in building a state of the art fertilizer hub in Winthrop Minnesota, being Winthrop was in the center of our trade territory it was a great place to build being the TC&W rail line runs through town. As we were researching the perfect location for our plant we looked at options to build off rail lines to depend solely on truck service but after much research and finding out what the freight rates would be coming out of the Twin Cities we then began construction.

We understand that the Southwest Transitway Environmental Impact Statement recommends a relocation of the freight rail route to help the Southwest Light Rail Transitway. But we have invested heavily because of the rail line in Winthrop and depend on the TC&W to operate its trains to and from us. These plans being proposed will directly effect TC&W with a cost increase that will have to be passed down to UFC and its customers.

We fully understand what it is like to be looking at ways to improve efficiencies we do it every day. But I do not believe it makes sense to try and change the needs of the metro at the expense of all of us that have already spent large amount of money prior to your plans.

As we understand there are a few options that look to have some compromise, that would not directly effect the freight rates leaving the metro. Please meet with the TC&W to work the issues out so both parties can meet a mutual beneficial plan.

Any questions on what role UFC plays in supporting the agricultural business in South Central Minnesota please give us a call at 1-507-647-6600

Sincerely,

Butch Altman
Agronomy Manager

OUR PURPOSE

To supply our customers with technology, products, and services in a manner that is extraordinary enough to add value to their lives.



November 30, 2012

Dear Hennepin County, Housing, Community Works & Transit

Re: Southwest Transitway

I am writing on behalf of United Grain Systems, LLC. Our trade territory stretches east/west from Bird Island to the Twin Cities and north/south from St Cloud to New Ulm. We have six grain elevators and about 4,000 customers. Because of our location, our choices of rail service are limited to the TC&W Railroad.

In September of this year we opened a new \$30 million state of the art shuttle loading rail facility on the TC&W rail line outside of Brownton, MN. We did this for several reasons. The first being "the market" is telling us to do this. Second, it allows us to connect to markets we were previously not able to access. Third, we have been encouraged by MNDOT to do everything we can to get truck traffic out of the Twin Cities. This project offered us the efficiencies of moving bulk grain commodities and allowed us to decrease truck congestion and decrease emissions. We thought this was a winning situation for everyone involved.

We never dreamt that an extension of Light Rail would or could affect our investment. We are not against Light Rail, but those that are making decisions for that project need to be aware that those decisions are affecting businesses and people far from the Twin Cities. According to the TC&W Railroad, decisions made by Hennepin County and the Metropolitan Council will adversely affect our company and customers. They say this will result in increased costs which will be passed down to us shippers, which in turn we pass onto our farmer customers.

We do not intimately know the details of the track issues involved, but we know that there are reasonable alternatives offered to you by the TC&W Railroad. We urge you to seriously consider those recommendations and work with the TC&W to arrive at a solution that preserves continued economical freight rail transportation.

Sincerely,

James S Johnson
Director of Grain Marketing
United Grain Systems, LLC



Councilmember Wills introduced the following resolution and moved for its adoption:

RESOLUTION 78-2012

**A RESOLUTION OPPOSING THE FREIGHT RAIL RELOCATION DESIGN
RECOMMENDATION IN THE DEIS TO ACCOMMODATE THE SOUTHWEST
LIGHT RAIL TRANSITWAY (SWLRT)**

WHEREAS, the City of Arlington is served by the Minnesota Valley Regional Rail Authority's (MVRRA) rail line, which is operated by Twin Cities & Western Railroad (TC&W); and

WHEREAS, the City of Arlington recognizes the growing importance of rail traffic to ease congestion on our state and local highways; and

WHEREAS, MVRRA rail line runs through Arlington and provides rail service to one of Arlington's largest employers, Seneca Foods; and

WHEREAS, Arlington's new Industrial Park accesses the MVRRA rail line; and

WHEREAS, the City of Arlington understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT); and

WHEREAS, we further understand, based on information provided to us by TC&W and concern expressed to us by Seneca Foods, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains through the City of Arlington; and

WHEREAS, any increased costs to freight rail will have a negative economic impact on Arlington businesses and any other business that decides to relocate in Arlington along the MVRRA rail line; and

WHEREAS, the City of Arlington supports the alternatives to the recommended design as presented by TC&W and believes those recommended changes provide for more competitive freight rail transportation through the City of Arlington.

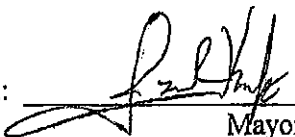
NOW, THEREFORE BE IT RESOLVED, by the City Council of Arlington that the City Council hereby recommends to Hennepin County and the Met Council that they address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work

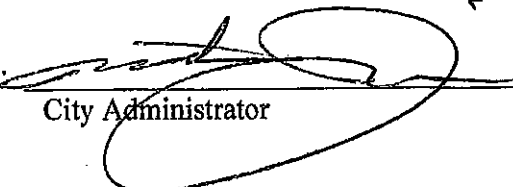
with the TC&W to arrive at a freight rail solution that preserves the existing economical freight rail transportation through the City of Arlington.

FURTHERMORE BE IT RESOLVED, since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economic freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we hereby recommend to Hennepin County and the Met Council that you reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as our community depends on economical freight rail transportation.

The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Ruehling and upon poll being taken thereon the following voted in favor thereof: Pederson, Ruehling, Pichelmann, Wills, Reetz; and the following voted against the same: None; and the following abstained from voting: None; and the following were absent: None.

The foregoing resolution was adopted by the City Council of the City of Arlington this 3rd day of December, 2012.

Signed: 
Mayor

Attested: 
City Administrator

Whereupon said resolution was declared duly passed and adopted and was signed by the Mayor whose signature was attested by the City Administrator.

City of Bird Island
660 Birch Avenue, PO Box 130
Bird Island, MN 55310
Phone (320) 365-3371 Fax (320) 365-4611
birdislandcity@mchsi.com

November 29, 2012

Dear Hennepin County, Housing, Community Work & Transit-ATTN: Southwest Transitway:

We, the City of Bird Island depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the City of Bird Island understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the City of Bird Island further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the City of Bird Island.

It is imperative that the City of Bird Island retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 41.) Do engineering for the reroute that meets TC&W's engineering standards,
- 42.) Co-locate the SWLRT with the current freight route,
- 43.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 44.) Route the SWLRT up the MN&S rail line

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the City of Bird Island oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Deb Lingl, Administrator
City of Bird Island

City of Buffalo Lake

November 29, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the City of Buffalo Lake depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the City of Buffalo Lake understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the City of Buffalo Lake further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the City of Buffalo Lake.

It is imperative that the City of Buffalo Lake retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

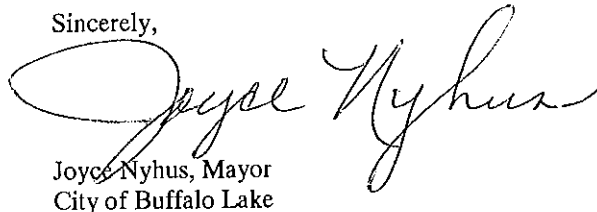
- 33.) Do engineering for the reroute that meets TC&W's engineering standards,
- 34.) Co-locate the SWLRT with the current freight route,
- 35.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 36.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the City of Buffalo Lake oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,



Joyce Nyhus, Mayor
City of Buffalo Lake



SMALL CITY & BIG FUTURE

GLENCOE AREA CHAMBER OF COMMERCE

1107 11th Street East, Suite 104, Glencoe, MN 55336

Phone: (320) 864-3650 • Fax: (320) 864-6405 • www.glencoe-mn.org

December 12, 2012

Dear Hennepin County, Housing, Community Works & Transit - ATTN: Southwest Transitway,

We, the members of the Glencoe Area Chamber of Commerce (GACC), represent Glencoe's business community. We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, GACC, further understand, based on information provided by Twin Cities & Western Railroad Company (TC&W), that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the businesses they serve. It is imperative that TC&W customers retain an economical freight rail transportation option which is provided by TC&W.

The design as recommended in the DEIS is not acceptable to maintain the region's competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation option.

Sincerely,

Laurie Gauer, Chair
Board of Directors, Glencoe Area Chamber of Commerce



SMALL CITY & BIG FUTURE

City of Glencoe ♦ 1107 11th Street East, Suite 107 ♦ Glencoe, Minnesota 55336
Phone (320) 864-5586

RESOLUTION NO. (2012-22)

**A RESOLUTION OF SUPPORT FOR TWIN CITIES & WESTERN (TC & W)
RAILROAD AND OPPOSITION TO THE PROPOSED FREIGHT RAIL
RELOCATION DESIGN**

WHEREAS, TC & W Railroad is located in the City of Glencoe and the City is dependent on TC & W RR to provide economical freight transportation for its customers; and,

WHEREAS, the City has learned that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). The recommended rail reroute design adds a significant climb by freight rail standards and tight track curvature. TC & W RR believes the design will require extra locomotives, fuel, track maintenance and additional time to operate the same trains it currently operates; and,

WHEREAS, the City wants TC & W RR to be a viable freight rail transportation option for its citizens and customers. The City is concerned that the recommended freight rail reroute design will negatively impact the shippers and communities that TC & W RR serves and the increased costs to TC & W RR will be passed on to its customers in Glencoe; and,

WHEREAS, the City asks Hennepin County and the Met Council to consider other design alternatives which would not increase TC & W RR's operating costs. These alternatives include:

- 1.) Conduct engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight to the 29th St Corridor, where TC&W conducted business before 1998, or
- 4.) Route the SWLRT to the MN&S rail line; and,

WHEREAS, the City believes that design alternatives can work for both Southwest Light Rail Transitway and TC & W RR's freight rail operations; and,

WHEREAS, the City is aware that TC & W RR's mission statement is to grow the economies of the areas it serves, and the DEIS recommendations pose a serious impediment to growing the economy of south central Minnesota. Due to the fact that rural Minnesota provides a significant amount of exports from the State of Minnesota, and having economical freight rail transportation is imperative to allowing rural Minnesota to compete in the global marketplace, the City requests Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and mutually agree upon an acceptable design. Rural Minnesota is dependent upon economical freight rail transportation.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GLENCOE:

- 1) That the City of Glencoe requests Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS; and,
- 2) That a Hennepin County and the Met Council work with TC & W R Railroa to arrive at a freight rail solution that is mutually agreeable and that preserves the existing economical freight rail transportation.

Adopted this 17th day of December, 2012.

By Randy Wilson
Randy Wilson, Mayor

Attest:

By MDL
Mark D. Larson, City Administrator

P.O. Box 457
Hector, MN 55342-0457
Voice: 320-848-2122
Fax: 320-848-6582



November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit –ATTN: Southwest Transitway:

We, the City of Hector depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the City of Hector understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the City of Hector further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the City of Hector.

It is imperative that the City of Hector retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

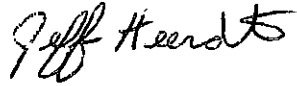
- 37.) Do engineering for the reroute that meets TC&W's engineering standards,
- 38.) Co-locate the SWLRT with the current freight route,
- 39.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 40.) Route the SWLRT up the MN&S rail line.

Therefore we recommend Hennepin County and the MET Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the City of Hector oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, appearing to read "Jeff Heerd". The signature is fluid and cursive, with a prominent "J" and "H".

Jeff Heerd
Mayor
City of Hector

City of Milan

244 North 2nd Street
PO Box 162
Milan, MN 56262

November 30, 2012

ATTENTION: Southwest Transitway

Dear Hennepin County, Housing, Community Works, & Transit:

The City of Milan and its adjacent communities and counties source of revenue is the creation, maintenance, sale, and TRANSPORTATION of agricultural products. These products are primarily row crops and grains. The vast majority of these crops are sold and TRANSPORTED to and processed to major manufacturing hubs; metro areas.

Milan's 'economic engine' is heavily dependent on inexpensive (cheap) TRANSPORTATION from acquiring the inputs to selling and TRANSPORTING the crop. The presently proposed relocation of TCW's track structure for the Southwest Transitway System places onerous and unbearable costs on TCW and ultimately the Milan area farmers, businesses, and citizens. The City of Milan urges that the present draft and proposal be readdressed to find a solution more economically favorable to TCW, its customers, and the people of west central Minnesota.

Rural, Greater Minnesota, recognizes, understands, and endorses the concept of mass transit for the Metro area. We only request that the MOST ECONOMICAL design for TCW and west central Minnesota be adopted. To benefit the Metro area at the expense of the rural population is untenable. Both sides have to cooperate for the benefit of all of Minnesota. Please consider our requests, needs and concerns when the final route is chosen.

MILAN CITY COUNCIL

Mayor Ted Ziemann



"This institution is an equal opportunity provider."



Economic Development Authority

103 Canton Ave., P.O. Box 517 Montevideo, Minnesota 56265 Telephone: 320 / 269-6575 Fax: 320 / 269-9340

November 26, 2012

Dear Hennepin County, Housing, Community Works & Transit - ATTN: Southwest Transitway:

We, the City of Montevideo Economic Development Authority, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the City of Montevideo Economic Development Authority, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the City of Montevideo Economic Development Authority, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the City of Montevideo Economic Development Authority.

It is imperative that the City of Montevideo Economic Development Authority retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

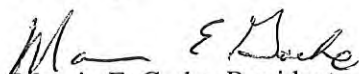
- 65.) Do engineering for the reroute that meets TC&W's engineering standards;
- 66.) Co-locate the SWLRT with the current freight route;
- 67.) Reroute freight back to the 29th Street Corridor, where TC&W ran until 1998; or,
- 68.) Route the SWLRT up the MN&S rail line.

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the City of Montevideo Economic Development Authority, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,


Marvin E. Garbe, President
MEG/gl

CITY OF



★ All-America City ★

103 Canton Ave., P.O. Box 517 Montevideo, Minnesota 56265 Telephone: 320 / 269-6575 Fax: 320 / 269-9340

November 26, 2012

Dear Hennepin County, Housing, Community Works & Transit - ATTN: Southwest Transitway:

We, the City of Montevideo, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the City of Montevideo, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the City of Montevideo, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the City of Montevideo.

It is imperative that the City of Montevideo retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 65.) Do engineering for the reroute that meets TC&W's engineering standards;
- 66.) Co-locate the SWLRT with the current freight route;
- 67.) Reroute freight back to the 29th Street Corridor, where TC&W ran until 1998; or,
- 68.) Route the SWLRT up the MN&S rail line.

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the City of Montevideo, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Steven C. Jones, City Manager
SCJ/gl

Equal Opportunity Provider & Employer



MORTON

“The Oldest Story in North America”

221 West Second Street – P.O. Box 127 – Morton, MN 56270-0127

Phone: (507) 697-6912 Fax: (507) 697-6118

E-Mail: mortoncityhall@mchsi.com

This institution is an equal opportunity provider

TDD/TTY: 651-602-7830

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

The City of Morton depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the City of Morton.

It is imperative that the City of Morton retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation. Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

The City of Morton opposes the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,



Carl Colwell, Mayor
Morton City Council



November 30, 2012

Hennepin County
Housing, Community Works and Transit
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415-1842

RE: Southwest Transitway

Dear Hennepin County, Housing, Community Works and Transit:

The City of Norwood Young America depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight transportation. The City of Norwood Young America understands that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). The City of Norwood Young America further understands, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012, will result in increased costs for TC&W to operate its trains to and from the community of Norwood Young America.

It is imperative that the city of Norwood Young America retain an economical freight rail transportation option, which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards.
- 2.) Co-located the SWLRT with the current freight route.
- 3.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998.
- 4.) Route the SWLRT up the MN&S rail line.

We recommend that Hennepin County and the Met council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economic freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend that Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

The City of Norwood Young America opposes the freight rail relocation design recommendation in the DEIS based on information provided by TC&W, and recommends that the freight rail issues be resolved to preserve our economical freight rail transportation options.

If you have any questions regarding this letter, please feel free to contact me at tsimmons@cityofnYA.com, or 952-467-1800.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Simmons", with a long horizontal flourish extending to the right.

Tom Simmons, City Administrator
City of Norwood Young America



Hennepin County
Housing, Community Works & Transit
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415-1842

December 3, 2012

Re: Southwest Transitway

Dear Hennepin County Housing, Community Works & Transit:

On behalf of the Olivia Mayor and City Council, we would like to go on record in regards to the recommended relocation of the freight rail route of Twin Cities & Western Railroad (TC&W) to accommodate the Southwest Light Rail Transitway. Our agriculture-based economy depends on economical freight rail transportation and the Olivia City Council urges Hennepin County and the Metropolitan Council to address TC&W's concerns over the proposed freight rail relocation plans being considered.

Increased freight rail costs associated with such plans will no doubt have a negative impact on our local economy. My City Council asks that the stakeholders in this discussion seriously consider alternative proposals which will better achieve the goal of expanded light rail transit while still maintaining competitive and economical freight rail for Olivia and the numerous other counties, cities and townships who are served by TC&W.

The position of the Olivia City Council is one of opposition to the current freight rail relocation design recommendation in the Southwest Transitway Draft Environmental Impact Statement; and they recommend that the issues related to freight rail be resolved so to preserve economical freight rail transit for our region. The current relocation plans would result in increased operational costs for TC&W which in turn would negatively impact our regional economy. The City of Olivia requests that Hennepin County and the Metropolitan Council consider alternatives to the relocation design currently being proposed.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dan Coughlin", is written over a faint, larger version of the same signature.

Dan Coughlin
Olivia City Administrator

CITY OF PLATO

P.O. Box 7

Plato, MN 55370

December 11, 2012

Hennepin County, Housing, Community Works & Transit
ATTN: Southwest Transitway

We, the City of Plato, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the City of Plato, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the City of Plato, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012, will result in increased costs for TC&W to operate its trains to and from the City of Plato.

It is imperative that the City of Plato retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 17.) Do engineering for the reroute that meets TC&W's engineering standards,
- 18.) Co-locate the SWLRT with the current freight route,
- 19.) Reroute freight back to the 29th Street Corridor, where TC&W ran until 1998, or
- 20.) Route the SWLRT up the MN&S rail line.

Therefore, we recommend Hennepin County and the Met Council address TC& W's concerns over the design of the freight rail relocation shown in the DEIS, and work with TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the City of Plato, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Regards,
Plato City Council

Phone (320)238-2432
Fax (320) 238-2542

website: www.cityofplato.com
email: cityofplato@embarqmail.com

City of Stewart
551 Prior Street
PO Box 195
Stewart, MN 55385
Phone & Fax – 320-562-2518
TDD - 711

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the City of Stewart depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the City of Stewart understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the City of Stewart further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from City of Stewart.

It is imperative that City of Stewart retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

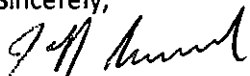
- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

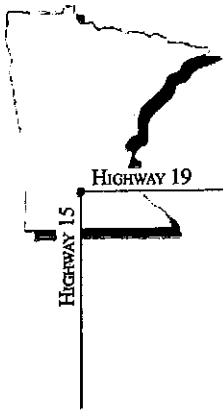
We, the City of Stewart oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,



Jeff Erkenbrack – Mayor
City of Stewart

An equal opportunity provider



CITY OF WINTHROP

INCORPORATED IN 1881

November 27th, 2012

MAYOR
DAVID TREBELHORN

CITY COUNCIL
PETER MACHAIEK
LYLE MUTH
COLLEEN DIETZ
ROB EDWARDS
ED PELLETIER

**CITY ADMINISTRATOR/
EDA DIRECTOR**
MARK ERICKSON

CITY CLERK
JENNY HAZELTON

MEMBER OF:
LMC
MASC
MMUA
MMPA

Hennepin County, Housing, Community Works & Transit
ATTN: Southwest Transitway

To whom it may concern:

During the past 18 years, Heartland Corn Products, United Farmers Cooperative and Land O Lakes Cooperative have invested tens of millions of dollars in Winthrop because of its proximity to affordable rail service. In 2009 the City of Winthrop invested nearly \$2 million in a rail-assisted industrial park.

We depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation to and from our community.

It has been brought to our attention the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends relocating the freight rail route to accommodate the Southwest Light Rail Transitway (SRTL).

We further understand the proposed rail relocation will result in increased operational costs for TC&W which in turn will mean increased shipping costs for Winthrop businesses that use the rail.

While we appreciate and agree with the need to advance the idea of passenger rail traffic, it cannot be done at the expense of rural businesses.

Our local businesses must retain access to economical rail transportation provided by TC&W. We have been told the design as recommended in the DEIS will increase operational costs for TC&W.

We strongly urge you to look at alternatives to the current design that would include the following options:

1. Do engineering for the reroute that meets TC&W's engineering standards;
2. Co-locate the SWLRT with the current freight route;
3. Reroute freight back to the 29th Street corridor where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line.

Through this letter we are asking Hennepin County and the Met Council to address TC&W's design concerns and work with them to find a solution that allows our businesses and city to continue to benefit from the investment they have made while allowing you to responsibly meet your future transportation needs.

Rural Minnesota products figure prominently in the overall export market for the state of Minnesota. It is essential we have economical freight rail transportation solutions so we can continue to compete in the global market.

Based on information provided by TC&W, the City of Winthrop opposes the freight rail relocation design recommendation in the DEIS and asks Hennepin County and the Met Council to also reject the design and work with all parties to arrive at a solution that is acceptable to everyone.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Trebelhorn", with a long, sweeping flourish extending from the end of the name.

Dave Trebelhorn, Mayor
City of Winthrop



BIG STONE COUNTY
AUDITOR'S OFFICE

DATE: 12/7/12

MEMO TO: Mark Wegner

MEMO FROM: Michelle Knutson

RE: Letter of Support

Please see the enclosed Letter for your official response to the DEIS. The Board chose to write their own letter versus using the sample one you provided.

If you have any questions, please let me know.



Big Stone County Board of Commissioners
20 2nd Street SE - Ortonville, MN 56278
Phone/Fax (320)-839-6372

December 6, 2012

District 1
Walter Wulff
65292 270th St
Chokio, MN 56221

District 2
Wade Athey
29161 800th Ave
Graceville, MN 56240

District 3
Brent Olson
34596 690th Ave
Ortonville, MN 56278

District 4
Roger Sandberg
539 4th St NW
Ortonville, MN 56278

District 6
Joseph Berning
736 Grace St
Ortonville, MN 56278

Dear Hennepin County, Housing, Community Works & Transit – ATTN:
Southwest Transitway:

We have watched with interest the discussion around relocation of the freight rail route to accommodate the Southwest Light Rail Transitway. While we do not have expertise to advise you on the changes you propose, we have deep concerns that the parties involved might not realize that changes proposed in the metropolitan counties have a profound effect on rural businesses and citizens far removed from your area.

Here in Big Stone County we have a number of businesses that rely on TC&W for transportation of goods. Any change in rates or service could make the difference between profit or loss for these businesses in what is already a fragile economy. We respectfully request that those factors be included in your decision making process, in order to serve the interests of all the citizens of the State of Minnesota.

Sincerely,
Big Stone County Board of Commissioners

Walter W. Wulff
Chairman



Tom Workman
Office of County Commissioner
Carver County Government Center
Human Services Building
602 East Fourth Street
Chaska, MN 55318-1202
Phone: 952 361-1510
Fax: 952 361-1581

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

Carver County depends on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. I understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). I also further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Carver County.

It is imperative that Carver County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Route the SWLRT up the MN&S rail line

Therefore I recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

As a Carver County Commissioner and as a member of the Minnesota Valley Regional Rail Authority, I oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Tom Workman
Carver County Commissioner

GRANT COUNTY



SOUTH DAKOTA

OFFICE OF COUNTY COMMISSIONERS
210 East 5th Avenue
Milbank, SD 57252-2499
Phone: 605-432-6711
Fax: 605-432-9004

December 21, 2012

Dear Hennepin County, Housing, Community Works & Transit – Attn: Southwest Transitway:

Grant County is pleased Twin Cities & Western Railroad Company (TC&W) has taken over the small rail line in our county and is planning expanded growth of this line for economical freight rail transportation.

The Grant County commission understands the Southwest Transitway Draft Environmental Impact Statement (DEIS) has recommended a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). Our county commission further understands, based on information provided by TC&W, the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Grant County.

It is imperative Grant County retains an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain the competitive freight rail transportation. Alternatives to your recommended design would be:

- 1). Do engineering for the reroute that meets TC&W's engineering standards,
- 2). Co-locate the SWLRT with the current freight route,
- 3). Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4). Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Due to the fact rural Minnesota provides a significant amount of exports from the State of Minnesota and having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we would like to recommend the Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design for economical freight rail transportation.

The Grant County Commission respectfully requests the Hennepin County Commission and the Met Council to note our opposition to the freight rail design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options. Thank you for your consideration.

Sincerely,

Doug Stengel
Commission Chairman,
Grant County, SD



County of McLeod

830 11th Street East
Glencoe, Minnesota 55336
FAX (320) 864-3410

COMMISSIONER RAY BAYERL

1st District
Phone (320) 485-2181
20778 Cable Avenue
Lester Prairie, MN 55354
Ray.Bayerl@co.mcleod.mn.us

COMMISSIONER SHELDON A. NIES

4th District
Phone (320) 587-5117
1118 Jefferson Street South
Hutchinson, MN 55350
Sheldon.Nies@co.mcleod.mn.us

COMMISSIONER KERMIT D. TERLINDEN

2nd District
Phone (320) 864-3738
1112 14th Street East
Glencoe, MN 55336
Kermit.Terlinden@co.mcleod.mn.us

COMMISSIONER BEV WANGERIN

5th District
Phone (320) 587-6869 817 Colorado
Street NW Hutchinson, MN 55350
Bev.Wangerin@co.mcleod.mn.us

COMMISSIONER PAUL WRIGHT

3rd District
Phone (320) 587-7332
15215 County Road 7
Hutchinson, MN 55350
Paul.Wright@co.mcleod.mn.us

COUNTY ADMINISTRATOR

PATRICK T. MELVIN
Phone (320) 864-1363
830 11th Street East, Suite 110
Glencoe, MN 55336
Pat.Melvin@co.mcleod.mn.us

12/3/12

Dear Hennepin County, Housing, Community Works & Transit - ATTN: Southwest Transitway:

We, the McLeod County depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the McLeod County understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the McLeod County further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from McLeod County.

It is imperative that McLeod County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

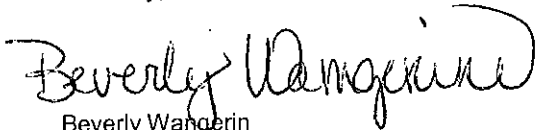
- 85.)Do engineering for the reroute that meets TC&W's engineering standards,
- 86.)Co-locate the SWLRT with the current freight route,
- 87.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 88.)Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the McLeod County oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, reading "Beverly Wangerin". The signature is written in a cursive, flowing style with a large, prominent "B" and "W".

Beverly Wangerin
McLeod County

Minnesota Valley Regional Rail Authority



200 S Mill Street
PO Box 481
Redwood Falls, MN
56283

Phone: 507-637-4004
Fax: 507-637-4082
E-mail: julie@redwoodfalls.org

Serving the communities and counties of Carver, Sibley, Renville,
Redwood, and Yellow Medicine in Minnesota

December 18, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Minnesota Valley Regional Rail Authority, depend on the Twin Cities & Western Railroad Company (TC&W) as our operator for the Minnesota Prairie Line, for economical freight rail transportation. We, the Minnesota Valley Regional Rail Authority, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Minnesota Valley Regional Rail Authority, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from the 16 communities they serve in Carver, Sibley, Redwood, Renville, and Yellow Medicine Counties!

It is imperative that our shippers along our MVRRA/MPL line retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design

as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Minnesota Valley Regional Rail Authority, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options. Collectively, we represent 5 counties, 16 communities, and thousands of ag producers and businesses who depend on freight rail transportation to deliver their goods and services to global markets and have been shipping via rail for years! We would be happy to discuss your proposal in further detail and its impacts to our rail line and our operator!

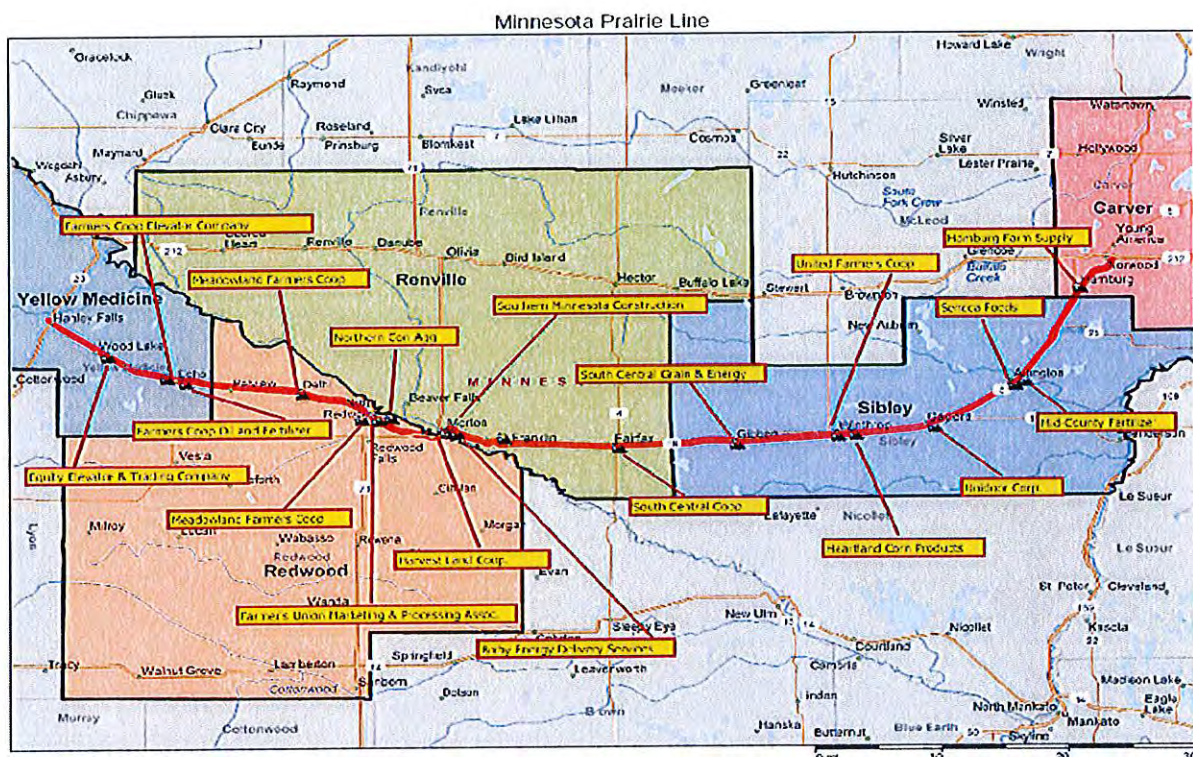
Sincerely,

Bob Fox

Bob Fox, Chair
Minnesota Valley Regional Rail Authority

Julie Rath

Julie Rath
MVRRA Administrator





200 S MILL STREET PO BOX 481
REDWOD FALLS, MN 56283
WWW.RADC.ORG
JULIE@REDWOODFALLS.ORG
507-637-4004

December 18, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Redwood Area Development Corporation and the shippers in our county communities, depend on the Minnesota Prairie Line operated by Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Redwood Area Development Corporation, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Redwood Area Development Corporation, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from «Company».

It is imperative that our county businesses can rely on MPL/TC&W as an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Redwood Area Development Corporation, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,


Julie Rath, Economic Development Specialist
Redwood Area Development Corporation/Redwood County EDA

Mission Statement: Our primary focus is community and economic development for member communities including Job creation and strengthening or expanding existing businesses in the Redwood Area.



REDWOOD COUNTY BOARD OF COMMISSIONERS

P.O. Box 130 • Redwood Falls, Minnesota 56283
Phone: 507.637.4016 • Fax: 507.637.4017
Website: www.co.redwood.mn.us

November 27, 2012

Dear Hennepin County, Housing, Community Works & Transit - ATTN: Southwest Transitway:

We, the Redwood County depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Redwood County understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Redwood County further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Redwood County.

It is imperative that Redwood County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 117.) Do engineering for the reroute that meets TC&W's engineering standards,
- 118.) Co-locate the SWLRT with the current freight route,
- 119.) Reroute *freight* back to the 29th St Corridor, where TC&W *ran* until 1998, *or*
- 120.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design *as recommended in the* DEIS and *arrive at an* acceptable design, *as we* depend *on* economical freight rail transportation.

We, the Redwood County oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Lon Walling

Board Chair
Redwood County

1st District
LON WALLING
27784 Co. Hwy 5
Milroy, MN 56263
507-747-2175
lon_w@co.redwood.mn.us

2nd District
JOHN SCHUELLER
29157 250th Street
Wabasso MN 56293
507-342-5621
john_s@co.redwood.mn.us

3rd District
AL KOKESCH
33650 Co. Hwy 2
Morton MN 56270
507-697-6477
al_k@co.redwood.mn.us

4th District
PRISCILLA KLABUNDE
400 Teakwood Dr.
Redwood Falls, MN 56283
507-637-3817
priscilla_k@co.redwood.mn.us

5th District
SHARON HOLLATZ
393 Laser Trail
Redwood Falls, MN 56283
507-641-2999
sharon_h@co.redwood.mn.us



Upper Minnesota Valley
REGIONAL DEVELOPMENT COMMISSION
Helping Communities Prosper

323 W Schlieman Ave. Appleton, MN 56208-1299

320.289.1981 (office)

320.289.1983 (fax)

www.umvrdc.org

Tuesday, November 27, 2012

Hennepin County Housing, Community Works & Transit
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

Dear Hennepin County Housing, Community Works & Transit;

The Upper Minnesota Valley Regional Development Commission's five county region is served by the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. Ours and other rural Minnesota regions provide a significant amount of exports for the State of Minnesota and having economical freight rail transportation is critical to allow rural Minnesota to compete in the global marketplace. It is also indispensable to have a freight carrier with local roots to work with on rail related issues.

We understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). The movement of freight and people is an important community and economic development issue for our region and the entire state. Based on information provided by TC&W, we understand that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from our region. It is vital that the area served by the TC&W retain an economical freight rail transportation option. The proposed design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation.

Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

We recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our region's existing economical freight rail transportation.

Sincerely,

Gary Hendrickx, Chairman

Upper Minnesota Valley Regional Development Commission

Serving Big Stone, Chippewa, Lac Qui Parle, Swift and Yellow Medicine Counties



Bob Fox, Chair
Renville County Board of Commissioners
Renville County Government Services Center
Suite 315
105 South 5th Street
Olivia, MN 56277-1484

Phone: 320-523-3710
Fax: 320-523-3748

Affirmative Action - Equal Opportunity Employer

November 27, 2012

Hennepin County Housing, Community Works & Transit
ATTN: Southwest Transitway

We, Renville County, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, Renville County understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, Renville County, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Renville County.

It is imperative that Renville County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 89.) Do engineering for the reroute that meets TC&W's engineering standards;
- 90.) Co-locate the SWLRT with the current freight route;
- 91.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998; or
- 92. Route the SWLRT up the MN&S rail line

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, Renville County, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Bob Fox, Chair
Renville County Board of Commissioners



Renville County Courthouse
500 East DePue Avenue
Olivia, MN 56277

Phone: 320-523-3656
Fax: 320-523-3812
Website: www.renville.com

Working together with ...

- **Buffalo Lake**
- **Hector**
- **Bird Island**
- **Olivia**
- **Danube**
- **Renville**
- **Sacred Heart**
- **Morton**
- **Franklin**
- **Fairfax**

November 29, 2012

Dear Hennepin County, Housing, Community Works and Transit –ATTN:
Southwest Transitway

This letter is being sent to you to let you know that we support and value the services provided by the Twin Cities and Western Railroad Company and to request your consideration of an alternative route more feasible to both the SWLRT and TCW. Economical freight rail transportation is important to the long term economic growth not only of Renville County but also the state and region.

We know that the development of the Southwest Light Rail Transitway (SWLRT) is important for many reasons which you are most versed and we support the development. However, the proposed location of the route causes concerns as we understand it will result in increased costs to the Twin Cities and Western Railroad which results in increased costs to shippers along the line and also affects our efforts to assist industrial development along the TCW line, a main transportation route running through the communities of Buffalo Lake, Hector, Bird Island, Olivia, Danube, Renville, and Sacred Heart in Renville County.

At this time, we request that you do engineering for the reroute that meets TC&W's engineering standards, co-locate the SWLRT with the current freight route, reroute freight back to the 29th St. Corridor, where TC&W ran until 1998 or route the SWLRT up the MN&S rail line.



Printed with soy ink on recycled paper,
at least 60% post-consumer waste fiber.

*Come Home to Renville County ... where business, agriculture, and
opportunity go hand in hand!*

We recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design as we depend on economical freight rail for the economic development of our county.

We believe by working together we can resolve this issue to the satisfaction of all parties. Please contact me at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Christina Hettig", with a long, sweeping horizontal line extending from the end of the signature.

Christina Hettig

Executive Director

ROBERTS COUNTY COMMISSIONERS
411 2ND AVENUE EAST
SISSETON, SOUTH DAKOTA 57262
605-698-7336

December 4, 2012

Dear Hennepin County, Housing, Community Works & Transit
Attn: Southwest Transitway:

We, Roberts County depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, Roberts County understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, Roberts County further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Roberts County.

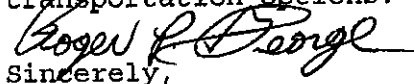
It is imperative that Roberts County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 105) Do engineering for the reroute that meets TC&W's engineering standards,
- 106) Co-locate the SWLRT with the current freight route,
- 107) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 108) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, Roberts County oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.


Sincerely,

Roberts County Commissioners

ROBERTS COUNTY COMMISSIONERS
411 2ND AVENUE EAST
SISSETON, SOUTH DAKOTA 57262
605-698-7336

December 4, 2012

Dear Hennepin County, Housing, Community Works & Transit
Attn: Southwest Transitway:

We, Roberts County depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, Roberts County understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, Roberts County further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Roberts County.

It is imperative that Roberts County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 105) Do engineering for the reroute that meets TC&W's engineering standards,
- 106) Co-locate the SWLRT with the current freight route,
- 107) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 108) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, Roberts County oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.


Sincerely,

Roberts County Commissioners

MinnRail, Inc.

Dear Hennepin County, Housing, Community Works & Transit
Attention: Southwest Transitway

I am writing to you as President of the Shipper's Association, (MinnRail, Inc.), of the Minnesota Prairie Line Railroad. We are a group of businesses that joined together over 25 years ago to support the Minnesota Valley Regional Rail Authority, (MVRRA), in rehabbing this line. We were required to raise \$600,000, (10%), in order for MNDOT to loan the Authority money to bring the track back to a minimally "useable" condition.

MNDOT supports this line for 3 reasons. The first is they support rail and know it is an efficient means of transportation, especially with bulk commodities. Secondly, their hope is this rail will take some of the truck traffic off of our rural highways and therefore require less maintenance. And last, but maybe not least, any diversion of truck traffic from Twin Cities roads is of high priority for MNDOT.

The west end of our line in Hanley Falls is essentially a dead end, not connected to any other rail line. The east end of our line connects with the TC&W Railroad at Norwood Young America. Obviously we rely on the TC&W for access to our line and therefore are directly affected by your decisions on the Light Rail Line.

The Minnesota Prairie Line is owned by the five counties it runs through; Carver, Sibley, Renville, Redwood Falls, and Yellow Medicine. I stated above that the line was originally rehabbed to a minimal condition. Over the last 10 years the objective of the Authority and the Shipper's has been to replace the old "light" rail with standard heavy duty rail in order to haul normal freight weights and increase the speed from 8 mph to 25 mph. Today the upgrade has been completed to Highway 15 on the west side of Winthrop.

The funding for this upgrade has come from state bonding bills and federal grants. It has been supported by legislators from both sides of the aisle as they have seen supporting this rail line as a means to help development, encourage growth, and get trucks off roads.

When the rehab was initially started, there was minimal rail use on it as who would invest in rail facilities if they did not know the rail line would even exist? However, the Shipper's and the MVRRA had a shared vision of success and accumulated the necessary funds to do the original work.

Since that start, several companies have invested and made use of the existing rail even with its limitations. As I said earlier, the upgraded line has now reached Winthrop and businesses that have invested on that portion of the line are being rewarded with the benefits of good, efficient rail service.

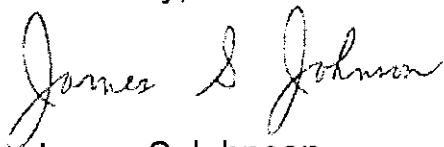
Today there is less activity on this line the further west you go, but with the success we have had, businesses and communities west of Winthrop are starting to get excited with the expectation that the upgrade will eventually make it to them and ultimately to Hanley Falls. Several companies are now considering investing on this line with that expectation. The western counties see it as a real resource to help grow their towns and counties.

The MVRRA, the 5 counties, all of the communities on the line, businesses that use the line, and their customers all have a vested interest in this line and a vision of having good rail service. We have seen great progress and anticipate successful completion someday.

Obviously we are concerned about any negative effects due to the Light Rail project. Based on information provided by TC&W, our understanding is that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs to operate trains. We also know they have supplied you with logical and practical alternatives. As Shipper's, we are very concerned about our investments in rail transportation and our continued competitiveness if rail freight expenses are adversely affected.

As the TC&W is the operator on our line and our link to the world, we support their recommendations. We believe a fair resolution can be found and trust that you will work for that goal. Our purpose is to make you aware that this is not just a "metro" decision and your decisions affect many more people and companies than you think. We ask that you carefully consider the proposals submitted by the TC&W.

Sincerely,

A handwritten signature in cursive script that reads "James S. Johnson".

James S Johnson
President, MinnRail Inc.

Director of Merchandising
United Grain Systems, LLC
Winthrop, MN



SEDCO

Sibley County Economic Development Commission

Timothy Dolan, Director

Phone: 507-237-4106

Toll Free: 866-766-5499

Fax: 507-237-4099

<http://www.co.sibley.mn.us/>

November 26, 2012

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Sibley County Economic Development Commission (SEDCO), depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We at SEDCO understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We at SEDCO further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS release on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from all points in the Sibley County service area.

It is imperative that the Sibley County service area retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W engineering standards
2. Co-locate the SWLRT with the current freight route
3. Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
4. Route the SWLRT up the MN&S rail line

Therefore, we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We at SEDCO oppose the freight rail design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical rail transportation options.

Sincerely,



Timothy Dolan
SEDCO Director

Office of the
**Sibley
County
Auditor**



Lisa Pfarr

Sibley County Auditor
400 Court Avenue
P.O. Box 171
Gaylord, MN 55334-0171
Phone 507-237-4070
Fax No. 507-237-4073
pfarrl@co.sibley.mn.us

Deputy Auditors:

Corissa Aronson
Administrative Assistant
Corissa@co.sibley.mn.us

Kelly Carson
License/Account Technician
KellyC@co.sibley.mn.us

Jodi Coleman
License/Account Technician
JodiC@co.sibley.mn.us

Barbara Ehlke-Herrmann
Payroll Coordinator
Barbara@co.sibley.mn.us

Sara Gordy
License/Account Technician
SaraG@co.sibley.mn.us

Logan Lauritsen
Land & Records Technician
LoganL@co.sibley.mn.us

Charlene Pelletier
Property Tax Supervisor
Char@co.sibley.mn.us

Aaron Scharpe
Accountant
AaronS@co.sibley.mn.us

Division E-mails:

Elect@co.sibley.mn.us
Elections@co.sibley.mn.us
Finance@co.sibley.mn.us
PropertyTax@co.sibley.mn.us

To: Mark Wegner
President
Twin Cities & Western Railroad

From: Lisa Pfarr, Sibley County Auditor

Date: November 27, 2012

RE: Letter of Support

Enclosed you will find a letter of support in regard to your position concerning the proposed freight rail route changes as a result of the Southwest Transitway project.

If you have any further questions, please feel free to contact Deputy Auditor Logan Lauritsen at 507-237-4070 or loganl@co.sibley.mn.us.

Thank you,

LP/lkl

Enclosure

**Sibley County
Board of
Commissioners**



District 1:

Jim Nytes

JimN@co.sibley.mn.us

District 2:

Bill Pinske

BillP@co.sibley.mn.us

District 3:

Swanson

Jlms@co.sibley.mn.us

District 4:

Joy Cohrs

JoyC@co.sibley.mn.us

District 5:

Harold Pettis

HaroldP@co.sibley.mn.us

Sibley County
Board of Commissioners
Courthouse
400 Court Avenue
P.O. Box 171
Gaylord, MN 55334-0171
Phone (507) 237-4070
Fax (507) 237-4073

November 27, 2012

Hennepin County, Housing, Community Works & Transit

Attn: Southwest Transitway

To whom it may concern:

We, the Sibley County Commissioners, depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Sibley County Commissioners, understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the Sibley County Commissioners, further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Sibley County.

It is imperative that Sibley County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

1. Do engineering for the reroute that meets TC&W's engineering standards
2. Co-locate the SWLRT with the current freight route
3. Reroute freight back to the 29th Street Corridor, where TC&W ran until 1998
4. Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

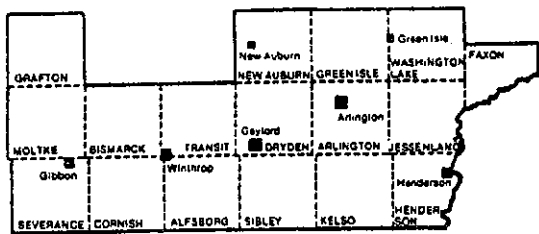
Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Sibley County Commissioners, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

Harold Pettis

Sibley County Commissioner Board Chair



OFFICE OF THE
Sibley County Attorney

307 N. PLEASANT AVE.
POST OFFICE BOX H
WINTHROP, MN 55396-0406

Tel: (507) 647-5377
Fax: (507) 647-5376

DAVID E. SCHAUER, County Attorney

DONALD E. LANNOYE, Assistant County Attorney

BRYCE A. D. EHRMAN, Assistant County Attorney

November 27, 2012

Hennepin County
Housing, Community Works & Transit

Metropolitan Council

RE: Southwest Light Rail Transitway

Dear Board Members and Council Members:

Sibley County is a member of the Minnesota Valley Regional Rail Authority (MVRRA). The member counties are Carver, Sibley, Renville, Redwood and Yellow Medicine. In the early 1980's MVRRA acquired the short line railroad that runs from Norwood Young America (in Carver County) to Hanley Falls (in Yellow Medicine County). Minnesota Prairie Line (MPL), a wholly owned subsidiary of Twins Cities & Western Railroad Company (TC&W), operates the rail line.

MVRRA depends on TC&W for economical freight rail transportation to serve shippers in the five counties. The Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). Based on information provided by TC&W, the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Sibley County and beyond.

It is imperative that we retain an economical freight rail transportation option, which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain competitive freight rail transportation. Alternatives to the recommended design would include:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Sibley County recommends Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves existing economical freight rail transportation.

Rural Minnesota provides a significant amount of exports from the State of Minnesota and having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace. Sibley County recommends Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design.

Just as moving "people" is important to Hennepin County and the Metropolitan Council, the economical movement of "freight" is important to Sibley County and MVRRA. As government entities we need to work together to advance the interests of all the government entities.

Sincerely,

SIBLEY COUNTY ATTORNEY'S OFFICE

A handwritten signature in black ink, appearing to read "David E. Schauer", written in a cursive style.

David E. Schauer
Sibley County Attorney



RICHARD W. NORMAN
County Coordinator

COUNTY OF WRIGHT

10 2nd Street NW, RM 235
Buffalo, Minnesota 55313-1188
www.co.wright.mn.us

Tel: (763) 682-7378
1-800-362-3667
Fax: (763) 682-6178

November 30, 2012

COMMISSIONERS

ROSE THELEN
First District
PAT SAWATZKE
Second District
JACK RUSSEK
Third District
ELMER EICHELBERG
Fourth District
DICK MATTSON
Fifth District

Dear Hennepin County, Housing, Community Works & Transit – ATTN: Southwest Transitway:

We, the Wright County depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Wright County understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We, the Wright County further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Wright County.

It is imperative that Wright County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 129.) Do engineering for the reroute that meets TC&W's engineering standards,
- 130.) Co-locate the SWLRT with the current freight route,
- 131.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 132.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Wright County oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,


Dick Mattson, District 5
Wright County



Equal Opportunity Employer

Ryan Krosch
Yellow Medicine County Administrator
415 9th Avenue, Suite 102
Granite Falls, MN 56241

Telephone: (320) 564-5841 Fax: (320) 564-3670
Email: ryan.krosch@co.ym.mn.gov
Website: www.co.ym.mn.gov

Dear Hennepin County, Housing, Community Works & Transit – Attn: Southwest Transitway:

We, the Yellow Medicine County Commissioner depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the Yellow Medicine County Commissioner understand that the Southwest Transitway Draft Environmental Impact Statement (DEIS) recommends a relocation of the freight rail route to accommodate the Southwest Light Rail Transitway (SWLRT). We the Yellow Medicine County Commissioner further understand, based on information provided by TC&W, that the recommended freight rail relocation design as shown in the DEIS released on October 12, 2012 will result in increased costs for TC&W to operate its trains to and from Yellow Medicine County.

It is imperative that Yellow Medicine County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 1.) Do engineering for the reroute that meets TC&W's engineering standards,
- 2.) Co-locate the SWLRT with the current freight route,
- 3.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
- 4.) Route the SWLRT up the MN&S rail line

Therefore we recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economical freight rail transportation.

Since Rural Minnesota provides a significant amount of exports from the State of Minnesota, and since having economical freight rail transportation is imperative to allow rural Minnesota to compete in the global marketplace, we recommend Hennepin County and the Met Council reject the freight rail design as recommended in the DEIS and arrive at an acceptable design, as we depend on economical freight rail transportation.

We, the Yellow Medicine County Commissioner oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,


Yellow Medicine County Commissioner



"Klemmensen, Todd"
<Todd.Klemmensen@mts.com>

12/28/2012 11:24 AM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc "Mahon, Steve" <Steve.Mahon@mts.com>, "Rivers, Alan"
<Alan.Rivers@mts.com>, "Adele.Hall@co.hennepin.mn.us"
<Adele.Hall@co.hennepin.mn.us>, "Powell, Catherine"
bcc

Subject MTS Systems Corporation - Written Comments to Draft EIS

Dear Sir or Madam,

Attached please find the MTS Systems Corporation written comments related to the proposed Southwest Light Rail Transit line – Draft EIS. Please contact me at your convenience with any questions. Thank you.

Todd Klemmensen

Todd Klemmensen
Director of Contracts & Senior Counsel
952-937-4030 (o)
952-258-9704 (m)
Todd.Klemmensen@mts.com

MTS Systems Corporation
14000 Technology Drive
Eden Prairie, MN 55344-2290 USA
www.mts.com

This message and any attachments are for the sole use of the intended recipient(s) and may contain confidential and/or privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply email and destroy all copies of the original message and any attachments. Thank you.



MTS Systems Corporation
14000 Technology Drive
Eden Prairie, MN 55344-2290
Telephone 952-937-4000
Fax 952-937-4515
Info@mts.com
www.mts.com

28 December 2012

Hennepin County
Housing, Community Works & Transit
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

Re: Southwest Light Rail Transit Project
Written Comments to Draft Environment Impact Statement (DEIS)

Dear Sir or Madam:

MTS Systems Corporation is an innovative, technology company headquartered in Eden Prairie, MN at 1400 Technology Drive. MTS has been a member of the business community in Eden Prairie since its beginnings in 1966. Although our company operates in numerous global locations with over 2100 employees, the Eden Prairie facility houses our Corporate headquarters and the MTS Systems Corporation, Test Division main office providing over 500 jobs to this area.

This letter includes MTS comments to the proposed Southwest Light Rail Transit Project – DEIS and provides input related to the proposed location of the rail line adjacent to the MTS Eden Prairie facility.

1. Impacts from MTS Testing to the Train and the Train Infrastructure. MTS is concerned that some of its own vibration testing on large systems could impact the infrastructure of the rail line and add safety risk to the Southwest Light Rail Transit Project. This risk is unknown at this time; however, MTS strongly recommends this factor be explored by the Project.
2. Potential Vibration. MTS is concerned that the vibration caused by the train could impact the precision test measurement conducted within its facility. This is especially a concern because MTS currently plans to modify its existing warehouse to accommodate large equipment checkout, a process which utilizes precision measurement during equipment test and final checkout. The planned location of the large equipment checkout is at a point closest to the proposed rail line and will see the most vibration impact. In addition, precision testing and measurement occurs throughout the building on both floors during both lab work and component manufacturing. These operations may be impacted by train vibration.
3. Potential Electronic Magnetic Interference (EMI) on System Checkout. There is concern that EMI will impact our measuring equipment and affect the data MTS collects.
4. Grade and Service Road on North Side of the Building. The proposed location of the rail line will impact the grade and the service road on the north side of the building which will require additional MTS infrastructure (foundation improvements) and/or eliminate the ability to use the service road.

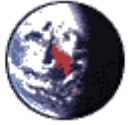
5. Truck Access Limitations. The proposed track location will restrict and possibly eliminate the truck access for shipping and receiving – including door access and turnaround space.
6. Associated Infrastructure Use. It is unclear at this time how much overall space the rail line will utilize in terms of grading, rail bed, track, light poles, etc.; and it is possible that this could completely eliminate the use of the MTS service and trucking road.

These are the initial comments and concerns submitted by MTS. If any additional items are identified in the future, MTS will provide supplemental information. If you have any questions related to the items noted above, please contact Todd Klemmensen, Director of Contract & Senior Counsel, at your convenience at 952-937-4030. Thank you for your consideration of these comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Klemmensen", with a long horizontal flourish extending to the right.

Todd Klemmensen
Director of Contracts & Senior Counsel



<brad@grnway.biz>
12/28/2012 02:45 PM

To swcorridor@co.hennepin.mn.us
cc "Jack Pfaff" <jpfaff60@msn.com>
bcc
Subject Southwest Transitway's West Lake Station

To Whom it may concern,
Please see the attached comment letter regarding the DEIS for the West Lake Station.
Sincerely,

Brad Pfaff CCIM

Greenway Commercial Properties
Calhoun Village
3266 W. Lake Street
Minneapolis, MN 55416

(612) 419-5311
(612) 354-2643 fax
brad@grnway.biz



DAVID HIBBARD, CSM, CPM
DIRECTOR OF ASSETS

150 WEST CHURCH AVENUE
MARYVILLE, TN 37801
W 865.380.7054
F 865.379.6828
C 865.567.8369
DHIBBARD@RUBYTUESDAY.COM
WWW.RUBYTUESDAY.COM

Ruby Tuesday

Comment #429

Ruby Tuesday

150 WEST CHURCH AVENUE
MARYVILLE, TENNESSEE 37801
P 865-379-5700
WWW.RUBYTUESDAY.COM



December 27, 2012

Via email and Federal Express

Hennepin County Housing, Community Works & Transit
Attn: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

RE: Ruby Tuesday at 12900 Technology Drive, Eden Prairie, MN

Dear Hennepin County:

I want to register an objection to the planned route of the Southwest light rail and the major impact the route will have on Ruby Tuesday's property.

The parking lot will be largely eliminated. As an operating business, the number of parking spaces is planned to produce a high level of sales. A reduction of the parking field will severely limit the ability of the unit to produce the sales necessary to amortize the associated debt on the property. This restaurant is a successful unit with a high level of debt. Clearly, the unit will be pushed into a loss position.

I must respectfully object to the planned reduction of the parking lot.

Respectfully,

David Hibbard, CSM, CPM





For FedEx Express® Shipments Only

Container should be compatible with the container and marked securely For

Ship Manager - Print Your Label(s)

Page 1 of 1

Insert
airbill
here

FROM: (865) 380-7054
David Hubbard
RUBY TUESDAY MARYVILLE OFFICE
150 West Church Avenue
Maryville, TN 37801



SHIP TO: (865) 380-7054
Southwest Transitway
Hennepin County Community Works
701 Fourth Avenue South, Suite 400
MINNEAPOLIS, MN 55415

BILL SENDER

J12201038003925

Ship Date: 27DEC12
ActWgt: 1.0 LB
CAD: 1896705/NET3300

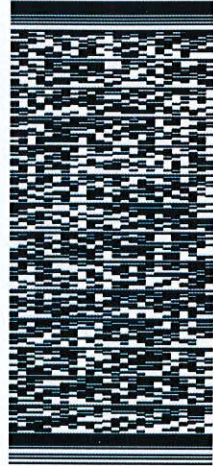


Ref # 2876-45 David Hubbard
Invoice #
PO #
Dept # 2876-45 David Hubbard

TRK# 7943 9725 9001
0201

FRI - 28 DEC A1
STANDARD OVERNIGHT

XH GPZA
55415
MIN-US
MSP



515G1R2830444

After printing this label:

SAFETY IN THE PARK!

RESPONSE TO THE SOUTHWEST LIGHT RAIL TRANSIT PROJECT-- DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) DECEMBER 30, 2012

EXECUTIVE SUMMARY

Safety in the Park is a St. Louis Park, Minnesota grassroots, non-partisan neighborhood organization. Safety in the Park promotes safety and livability by working with the county, city, and state to create an alternative solution for proposed increases in freight rail traffic on the former Minneapolis Northfield and Southern (MN&S) Railroad tracks. Safety in the Park is politically unaffiliated and does not endorse any candidates for political office. Safety in the Park represents a large community of concerned citizens in St. Louis Park as evidenced by the attached 1,500 plus signatures on our petition. Safety in the Park welcomes the addition of Southwest Light Rail Transit to St. Louis Park and supports its implementation.

The MN&S freight rail relocation portion of the SWLRT-DEIS is not in the best interests of public safety, railroad operating efficiency or conserving public funds.

History of the proposed relocation: In the mid-1990s the Minnesota Department of Transportation (MnDOT) and Hennepin County decided to sever, instead of grade separate, the Milwaukee Road railroad line at Hiawatha Avenue and the repercussions of that decision remain to this day.

Because there is no documentation of analysis or of public input, it can only be assumed that MnDOT and Hennepin County blithely displaced freight traffic from a major piece of railroad infrastructure, the 29th Street corridor and planned to move the freight to the “preferred location” on the MN&S a little-known, little-used former electric interurban line, and gave no thought to the negative impact of this action. Due to contaminated land the move to the MN&S was delayed and the freight trains were instead moved to the Kenilworth Corridor which was owned by the Hennepin County Regional Rail Authority (HCRRA).

Since the move to the to Kenilworth Corridor, the HCRRA has worked tirelessly to remove the freight from the Corridor and establish the freight in MnDOT’s “preferred location,” the MN&S. Each time MnDOT or the HCRRA brings up the wish to move the freight traffic the City of St. Louis Park has answered with a resolution stating that re-routed freight traffic would not be welcomed in the city. The first resolution was passed in 1996 with subsequent resolutions in 2001, 2010 and 2011.

Instead of honoring the resolutions and negotiating a compromise, the HCRRA has repeatedly ignored the St. Louis Park resolutions, maligned and marginalized the residents of the MN&S study area and then moved forward with its plans citing “promises made “ to the residents of the Kenilworth area as the reason for the action. These promises have no foundation in fact; documentation of the specific nature of the promises, who made the promises and to whom they were officially made, and why the alleged promises should be afforded the weight of public policy, does not exist.

On May 16, 2011 MnDOT issued an Environmental Assessment Worksheet (EAW) that spelled out how a re-route of freight traffic from the Bass Lake Spur owned by the Canadian Pacific Railroad (CP) to the MN&S Spur also owned by the CP might take place. The City of St. Louis Park and Safety in the Park appealed the findings of the EAW document. The EAW was later vacated and is no longer a valid document.

On September 2, 2011 the Federal Transportation Administration officially added the MN&S re-route to the SWLRT project.

SWLRT-DEIS : The proposed MN&S re-route is included the SWLRT-DEIS due to the FTA’s September 2, 2011 mandate that the re-route be considered a part of the SWLRT project. For 3A (LPA, relocation) to work the MN&S re-route must occur, making the re-route part of the SWLRT and not a connected action. As part of the SWLRT project the MN&S re-route must be included in the “study area” on a regular and consistent basis but the SWLRT-DEIS fails in this regard and violates the essential purpose of the National Environmental Protection Act (NEPA). The purpose of NEPA is to ensure that environmental factors are weighted equally before an infrastructure project can be undertaken by a federal agency. The omission of the proposed re-route leads to incorrect conclusions about the cost of the SWLRT.

Safety in the Park demands that relocation of freight traffic be analyzed as diligently as the rest of the SWLRT project. Unless the current version of the SWLRT-DEIS is amended significantly, the health, well-being and safety of St. Louis Park residents will be compromised by the proposed relocation of mainline freight rail traffic from the Bass Lake Spur onto the MN&S Spur. More than 1,500 residents have signed a petition insisting on fair treatment by the government agencies proposing the relocation.

Concerns about the inconsistencies in the SWLRT-DEIS can be found in detail in the following summary:

- Lack of reasoning behind the need for the re-route due to the fact that a viable, less costly and safer option exists with co-location of freight traffic and SWLRT in the Kenilworth Corridor (Chapter 1)
- Lack of concern for Interstate Commerce
 - The late notification about the existence of the SWLRT-DEIS to the Surface Transportation Board (STB) Wednesday, November 28, 2012
 - Implementation of SWLRT could cause disruption of rail service to TC&W clients (Chapter 1)
 - The Memo Dated December 10, 2012 from the STB to the FTA received incomplete answers. (Chapter 1)
- Lack of public input and documentation (Chapters 2 and 12)
 - No documentation of analysis for determining MN&S as preferred location for freight after the freight tracks in the 29th Street Corridor were severed
 - No documentation of promises made to the residents of Kenilworth area
 - The MN&S re-route was not part of the scoping and decision making when route 3A (LPA, relocation) was chosen
- Lack of accurate study into the direct impacts of the proposed relocation with respect to
 - Social Impacts (Chapter 3)
 - Environmental Impacts (Chapter 4)
 - Economic Effects (Chapter 5)
 - Transportation Effects (Chapter 6)
 - Section 4(f) Evaluation (Chapter 7) - Specifically the use of 0.81 acres of Cedar Lake Park which is currently being used for freight trains.
- Lack of inclusion of methodology used to determine the cost of the SWLRT project. (Chapter 8) This lack of methodology is particularly glaring in light of the fact that a \$100,000,000 “typo” occurred
- Lack of an analysis of the indirect and cumulative impacts caused by the proposed freight relocation (Chapter 9)
- Lack of analysis of Environmental Justice (Chapter 10)
- Lack of 23 CFR 771.111(f) analysis to determine if the relocation of freight is “feasible or prudent” (Chapter 11)

Action requested: Halt any decision on the freight relocation issue until further study is completed such that the missing information and flawed assumptions can be addressed. This secondary study needs to have a scope agreed upon by the city of St. Louis Park, Safety in the Park, and railroad companies. Furthermore, the secondary study must be conducted by a government agency and engineering firm not previously associated with the proposed re-route.

Once the new study is completed, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed re-route prior to making decisions.

Conclusion of analysis of this SWLRT-DEIS response: Applying the “test” from 23 CFR Sec. 774.17 reveals that the proposed reroute in LRT 3A (LPA) is neither “feasible nor prudent.” Therefore, the use of 0.81 acres of Cedar Lake Park according to the Act of 1966 codified at 49 U.S.C. 303 and 23 U.S.C. 138 will not impede the building of SWLRT.

LRT 3A-1 (Co-location) best meets the Southwest Transitway project’s Purpose and Need Statement as expressed by the goals of improving mobility, providing a cost-effective and efficient travel option, preserving the environment, protecting quality of life, supporting economic development, and developing and maintaining a balanced and economically competitive multimodal freight system. **In light of the facts presented in this SWLRT-DEIS response Safety in the Park recommends that LRT 3A-1 (Co-location) be chosen as the only viable option for SWLRT.**

SOUTHWEST TRANSITWAY

DRAFT ENVIRONMENTAL IMPACT STATEMENT COMMENTS

Prepared By:

Safety in the Park

safetyinthepark@gmail.com

St. Louis Park, MN 55416

December 28,2012

**Thom Miller, Co-Chair
Safety in the Park**

December 28, 2012

**Jami LaPray, Co-Chair
Safety in the Park**

SAFETY IN THE PARK!

RESPONSE TO THE SOUTHWEST LIGHT RAIL TRANSIT PROJECT-- DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS) DECEMBER 30, 2012

EXECUTIVE SUMMARY

Safety in the Park is a St. Louis Park, Minnesota grassroots, non-partisan neighborhood organization. Safety in the Park promotes safety and livability by working with the county, city, and state to create an alternative solution for proposed increases in freight rail traffic on the former Minneapolis Northfield and Southern (MN&S) Railroad tracks. Safety in the Park is politically unaffiliated and does not endorse any candidates for political office. Safety in the Park represents a large community of concerned citizens in St. Louis Park as evidenced by the attached 1,500 plus signatures on our petition. Safety in the Park welcomes the addition of Southwest Light Rail Transit to St. Louis Park and supports its implementation.

The MN&S freight rail relocation portion of the SWLRT-DEIS is not in the best interests of public safety, railroad operating efficiency or conserving public funds.

History of the proposed relocation: In the mid-1990s the Minnesota Department of Transportation (MnDOT) and Hennepin County decided to sever, instead of grade separate, the Milwaukee Road railroad line at Hiawatha Avenue and the repercussions of that decision remain to this day.

Because there is no documentation of analysis or of public input, it can only be assumed that MnDOT and Hennepin County blithely displaced freight traffic from a major piece of railroad infrastructure, the 29th Street corridor and planned to move the freight to the “preferred location” on the MN&S a little-known, little-used former electric interurban line, and gave no thought to the negative impact of this action. Due to contaminated land the move to the MN&S was delayed and the freight trains were instead moved to the Kenilworth Corridor which was owned by the Hennepin County Regional Rail Authority (HCRRA).

Since the move to the to Kenilworth Corridor, the HCRRA has worked tirelessly to remove the freight from the Corridor and establish the freight in MnDOT’s “preferred location,” the MN&S. Each time MnDOT or the HCRRA brings up the wish to move the freight traffic the City of St. Louis Park has answered with a resolution stating that re-routed freight traffic would not be welcomed in the city. The first resolution was passed in 1996 with subsequent resolutions in 2001, 2010 and 2011.

Instead of honoring the resolutions and negotiating a compromise, the HCRRA has repeatedly ignored the St. Louis Park resolutions, maligned and marginalized the residents of the MN&S study area and then moved forward with its plans citing “promises made “ to the residents of the Kenilworth area as the reason for the action. These promises have no foundation in fact; documentation of the specific nature of the promises, who made the promises and to whom they were officially made, and why the alleged promises should be afforded the weight of public policy, does not exist.

On May 16, 2011 MnDOT issued an Environmental Assessment Worksheet (EAW) that spelled out how a re-route of freight traffic from the Bass Lake Spur owned by the Canadian Pacific Railroad (CP) to the MN&S Spur also owned by the CP might take place. The City of St. Louis Park and Safety in the Park appealed the findings of the EAW document. The EAW was later vacated and is no longer a valid document.

On September 2, 2011 the Federal Transportation Administration officially added the MN&S re-route to the SWLRT project.

SWLRT-DEIS : The proposed MN&S re-route is included the SWLRT-DEIS due to the FTA’s September 2, 2011 mandate that the re-route be considered a part of the SWLRT project. For 3A (LPA, relocation) to work the MN&S re-route must occur, making the re-route part of the SWLRT and not a connected action. As part of the SWLRT project the MN&S re-route must be included in the “study area” on a regular and consistent basis but the SWLRT-DEIS fails in this regard and violates the essential purpose of the National Environmental Protection Act (NEPA). The purpose of NEPA is to ensure that environmental factors are weighted equally before an infrastructure project can be undertaken by a federal agency. The omission of the proposed re-route leads to incorrect conclusions about the cost of the SWLRT.

Safety in the Park demands that relocation of freight traffic be analyzed as diligently as the rest of the SWLRT project. Unless the current version of the SWLRT-DEIS is amended significantly, the health, well-being and safety of St. Louis Park residents will be compromised by the proposed relocation of mainline freight rail traffic from the Bass Lake Spur onto the MN&S Spur. More than 1,500 residents have signed a petition insisting on fair treatment by the government agencies proposing the relocation.

Concerns about the inconsistencies in the SWLRT-DEIS can be found in detail in the following summary:

- Lack of reasoning behind the need for the re-route due to the fact that a viable, less costly and safer option exists with co-location of freight traffic and SWLRT in the Kenilworth Corridor (Chapter 1)
- Lack of concern for Interstate Commerce
 - The late notification about the existence of the SWLRT-DEIS to the Surface Transportation Board (STB) Wednesday, November 28, 2012
 - Implementation of SWLRT could cause disruption of rail service to TC&W clients (Chapter 1)
 - The Memo Dated December 10, 2012 from the STB to the FTA received incomplete answers. (Chapter 1)
- Lack of public input and documentation (Chapters 2 and 12)
 - No documentation of analysis for determining MN&S as preferred location for freight after the freight tracks in the 29th Street Corridor were severed
 - No documentation of promises made to the residents of Kenilworth area
 - The MN&S re-route was not part of the scoping and decision making when route 3A (LPA, relocation) was chosen
- Lack of accurate study into the direct impacts of the proposed relocation with respect to
 - Social Impacts (Chapter 3)
 - Environmental Impacts (Chapter 4)
 - Economic Effects (Chapter 5)
 - Transportation Effects (Chapter 6)
 - Section 4(f) Evaluation (Chapter 7) - Specifically the use of 0.81 acres of Cedar Lake Park which is currently being used for freight trains.
- Lack of inclusion of methodology used to determine the cost of the SWLRT project. (Chapter 8) This lack of methodology is particularly glaring in light of the fact that a \$100,000,000 “typo” occurred
- Lack of an analysis of the indirect and cumulative impacts caused by the proposed freight relocation (Chapter 9)
- Lack of analysis of Environmental Justice (Chapter 10)
- Lack of 23 CFR 771.111(f) analysis to determine if the relocation of freight is “feasible or prudent” (Chapter 11)

Action requested: Halt any decision on the freight relocation issue until further study is completed such that the missing information and flawed assumptions can be addressed. This secondary study needs to have a scope agreed upon by the city of St. Louis Park, Safety in the Park, and railroad companies. Furthermore, the secondary study must be conducted by a government agency and engineering firm not previously associated with the proposed re-route.

Once the new study is completed, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed re-route prior to making decisions.

Conclusion of analysis of this SWLRT-DEIS response: Applying the “test” from 23 CFR Sec. 774.17 reveals that the proposed reroute in LRT 3A (LPA) is neither “feasible nor prudent.” Therefore, the use of 0.81 acres of Cedar Lake Park according to the Act of 1966 codified at 49 U.S.C. 303 and 23 U.S.C. 138 will not impede the building of SWLRT.

LRT 3A-1 (Co-location) best meets the Southwest Transitway project’s Purpose and Need Statement as expressed by the goals of improving mobility, providing a cost-effective and efficient travel option, preserving the environment, protecting quality of life, supporting economic development, and developing and maintaining a balanced and economically competitive multimodal freight system. **In light of the facts presented in this SWLRT-DEIS response Safety in the Park recommends that LRT 3A-1 (Co-location) be chosen as the only viable option for SWLRT.**

CHAPTER 1 - PURPOSE AND NEED FOR THE PROPOSED ACTION:

1.0 - The essential purpose of the National Environmental Protection Act (NEPA) is to ensure that environmental factors are weighted equally before an infrastructure project can be undertaken by a federal agency. The SWLRT-DEIS does not fulfill the essential purpose of NEPA. The SWLRT-DEIS is not an objective analysis of the environmental impacts of the proposed freight rail re-route (3A, LPA re-route) and the proposed co-location freight rail alternative (3A -1 LPA co-location). Instead of being objective the SWLRT-DEIS is written as an advocacy for the favored outcome. SWLRT-DEIS employs a variety of methods to mislead the reader and the Federal Transportation Administration into believing that co-location is not a “feasible or prudent” (NEPA [23 CFR 771.111(f)]) alternative, when in fact the exact opposite is true. The methods used include, but are not limited to inconsistent use of vocabulary, highlighting aspects of co-location while glossing over the same aspects of relocation, manipulation of the co-location site to include more area and completely omitting information about the re-route option that would call the feasibility of that option into question.

1.1 - Although Safety in the Park! does not disagree with the need for the Southwest Light Rail Transit (SWLRT) Project, we do disagree with the need for the re-routing of freight trains from what is referred to in the SWLRT - DEIS as the Canadian Pacific(CP) Bass Lake Spur to the Minneapolis, Northfield and Southern (MN&S) Subdivision and the Burlington Northern Santa Fe (BNSF) Wayzata Subdivision. Using the term “Subdivision” in relation to the MN&S is not only incorrect it but it is also misleading. According to officials at the CP the correct classification of the MN&S is a spur line that is part of the Paynesville Subdivision. The use of the term subdivision when describing both the MN&S and the BNSF in St. Louis Park misleads the reader into thinking the MN&S and the BNSF are similar if not equal in layout and usage. This could not be further from the truth. The Bass Lake Spur and the BNSF Wayzata Subdivision were both built to Main Line rail specifications. They both have wide R-O-W, few if any at grade crossings and they are relatively straight and free of grade changes. Conversely, the MN&S was built as an electric interurban and like all interurban has tight R-O-W, multiple aggressive curves and significant grade changes. Furthermore, the addition of the connections between these freight rail lines will increase both curves and grades on the MN&S. The connection between the Bass Lake Spur and the MN&S will have an eight degree curve and a grade of .86%. While the connection between the MN&S and Wayzata Subdivision will have a four degree curve and a 1.2% grade differential. (SWLRT-DEIS Appendices F parts 2 and 3 and SEH http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf) Adding to the misrepresentation of the different rail lines is the name given to the rail property owned by the Hennepin County Regional Rail Authority, locally and recently known as the Kenilworth Corridor. This “corridor” was until it was purchased by Hennepin County a major, mainline rail yard called the Kenwood Yard. This yard held as many as 14 sets of railroad tracks and with the exception of a short section, the land used as a rail yard has not been built upon.

The misrepresentation continues at the bottom of page 1-1 of the SWLRT-DEIS in the second bullet point which states, “The co-location of LRT and TC&W freight rail service on reconstructed freight rail tracks on the CP’s Bass Lake Spur and HCRRA’s Cedar Lake (Kenilworth Corridor)” suggesting that the TC&W tracks in the Kenilworth Corridor had to be “reconstructed” when in fact they had never been removed, and only underwent repairs to put them back into service (1-1). (Safe in the Park - Chapter 1 Appendix – Document 4)

A formal abandonment process never took place (an outline of this history was found in a document,

T:TRE/3aTransitPlanning/Kwalker/SLP_FreightRail/BackgroundforHCRRA_120709.doc, obtained from the HCRRA through the Freedom of Information Act). (Hennepin County Repair announcements August 27, 2012 - Safe in the Park - Chapter 1 Appendix – Document 4).

Further misuse of the term “abandoned” is found in the last paragraph on page 1-3 , “The LRT line would operate in a combination of environments including operations in abandoned freight rail right-of-way (ROW) acquired by HCRRA, at- grade operations in street and trunk highway ROW, and operations in new ROW that would be acquired from public and private entities” (1-3). When the HCRRA purchased the property in question it was in disuse, but it had not formally abandoned, it was not in use. The difference appears subtle, but it is not. Formal abandonment requires a lengthy legal and administrative process to seek approval from the Surface Transportation Board, which only acquiesces when it has been convinced that the tracks are not needed by any customers or the overall rail system.

1.1.1 - Public Involvement and Agency Coordination Compliance:

During the scoping process portions of St. Louis Park were denied a voice. Potential participants in the scoping process were told that the freight rail issue did not belong in the discussions for a preferred alternative for the SWLRT. Consequently, the choice of LPA may have been different had the freight rail question been part of the discussion from the beginning. This issue will be documented and explored further in the Chapter 12 of the SWLRT-DEIS comment.

1.2.1 - Early Planning Efforts

On pages 1-6 and 1-7 a list of documents used in early planning of the SWLRT is presented. However there are several important documents left off of the list. These documents are not favorable to SWLRT and therefore seem to have been ignored.

- 1996--City of St. Louis Park Resolution--96-73 (Safe in the Park - Chapter 1 Appendix – Document 1)
- 1999--St. Louis Park Task Railroad Study
http://www.hennepin.us/files/HennepinUS/Housing%20Community%20Works%20and%20Transit/Regional%20Railroad%20Authority/Authority/Railroad_Study_March_1999.pdf
- 2001 City of St. Louis Park Resolution--01-120 (Safe in the Park - Chapter 1 Appendix – Document 2)
- 2010 City of St. Louis Park Resolution--10-070
http://www.stlouispark.org/webfiles/file/freight_rail.pdf
- Short Elliot Hendrickson Inc. (SEH)--Comparison of the MN&S route and the Kenilworth route--http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf
- 2011 City of St. Louis Park Resolution 11-058
http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf
- Evaluation of Twin Cities and Western Railroad responses(EAW)
http://www.mnsrailstudy.org/key_documents

To understand the opposition to the proposed reroute the documents listed above must be included in an objective evaluation of re-route portion of the SWLRT project. Furthermore; the SEH study and the comments to the EAW need to be considered before a conclusion about the freight question in the SWLRT-DEIS can be made.

1.2.2 Environmental Review and Project Development Process

This DEIS fails to consider the environmental impacts of the proposed reroute portion of the SWLRT project , but instead promotes a course of action that will redistribute property values from lower income neighborhoods in St. Louis Park to higher income neighborhoods in Minneapolis. The result is a net decline not only of property values, but also to overall public safety of Hennepin County. The reason for the effort to promote the re-route option over the co-location option may be based on undocumented promises touched on in the link below:
http://hennepinmn.granicus.com/MediaPlayer.php?view_id=10&clip_id=1459 (F)11-HCRR-0072

On July 20, 2010 a member of St. Louis Park City Staff requested documentation of the analysis that allowed MnDOT to designate the MN&S as the “preferred location” for TC&W freight traffic after the freight tracks were severed while rebuilding Hiawatha Ave. No documentation was ever received by the City of St. Louis Park. (Safe in the Park - Chapter 1 Appendix – Document 3)

1.2 and 1.2.1: Paragraphs discuss the Scoping Process that should comply with MEPA and NEPA rules pertaining to open-to-the-public meetings, comment sessions, and other public comments options with regard to the Alternatives Analysis. The DEIS admits during that time the city of St. Louis Park, residents and businesses were instructed in writing that the freight rail reroute was a separate issue not to be considered with the SWLRT. Therefore the entire time of “public comment” to decide the AAs should be considered null and void because citizens and municipalities were not properly informed of the environmental impacts of the LPA (1-6). During this same time the HCRRA was aware of resolutions made by more than one St. Louis Park City Council opposed the re-routing of freight trains. Had the reroute been considered a connected action during that time, it may have significantly changed support for the LPA by the city of St. Louis Park. Although the process may not have legally violated MEPA and NEPA standards, it did violate the spirit of the law.

1.3.2.1 - Declining Mobility

The SWLRT-DEIS continues its misrepresentation of information in its discussion of declining mobility. At the bottom of page 1-9 and the top of page 1-10 a list of current “employment centers” is given. The second item in a bullet point list is “St. Louis Park’s Excelsior and Grand – 10,000 jobs” (1-9, 1-10). This information is false. According to the City of St. Louis Park web-site demographics of employment (http://www.stlouispark.org/webfiles/file/stats/employment_stats.pdf) there are a total of 10,078 jobs in St. Louis Park. Many of these jobs are not near the proposed SWLRT alignment. The list on the city web site does not assign any number of jobs to the Excelsior and Grand area.

Following the list of “employment centers” (1-10), there is a general discussion about the congestion that could occur should the SWLRT not be built. This information is based on the United States Census conducted in the year 2000. The U.S. Census web site no longer shows census data from the year 2000 (<http://quickfacts.census.gov/qfd/states/27000.html>) making substantive comment on the data in SWLRT-DEIS impossible for the average resident of Hennepin County. Also, based on this old, unavailable information that does not take into account the downturn in the economy in 2008, vague generalizations are made. For example: “Current express bus travel times may increase, despite the current use of shoulder lanes” (1-10).

A simple if/then statement can be used to sum up and sow doubt on the conclusions made. If the information about St. Louis Park is false then what other information in the document is false?

1.3.2.2 - Limited Competitive, Reliable Transit Options for Choice Riders and Transit Dependent Populations including Reverse Commute Riders

Information and generalizations based on the unavailable and outdated 2000 Census are used and therefore all of the DEIS' conclusions are brought into question. When the 2000 Census is not the source of information the exact source and date of the information is often not provided. An example from page 1-10 of the SWLRT- DEIS is a case in point. "A number of major roadways in the study area such as TH 100 and TH 169 are identified by MnDOT as experiencing congestion during peak periods." (1-10) Who at MnDOT made this assertion? When was it made? Was the upcoming rebuild of TH 100 in St. Louis Park taken into account? (<http://www.stlouispark.org/construction-updates/highway-100-reconstruction.html>)

Although the information in section 1.3.2.2 does not discuss the proposed re-route portion of the SWLRT, it does speak to the general misrepresentation of information in the SWLRT.

1.3.2.3 - Need to Develop and Maintain a Balanced and Economically Competitive Multimodal Freight System

It is easy to agree in theory with the need for a vibrant freight rail system in a growing economy. However, the unsubstantiated and false assertions in this section make it impossible to agree that rail connections between the Bass Lake and MN&S spurs and the MN&S spur and the BNSF Wayzata subdivision are necessary for the greater good.

The SWLRT-DEIS states, "The construction of a new connection between the Bass Lake Spur and the MN&S Spur, a new connection between the MN&S Spur and the BNSF Wayzata Subdivision, and the upgrading of track on the MN&S Spur are included as recommended actions in the Minnesota State Rail Plan" (1-12). No citation is provided as to where in the Minnesota State Rail Plan this assertion can be found. Presented on pages 4-11 and 4-12 of the Minnesota State Rail Plan (<http://www.dot.state.mn.us/planning/railplan/finalreport/MNRailPlanFinalReportFeb2010.pdf>) are text and charts describing the upgrades needed to both the BNSF and the CP prior to 2030. There is no mention of the connections mentioned in the SWLRT-DEIS (4-11& 4-12).

It needs to be noted that the new construction discussed in the SWLRT-DEIS is the same plan used in the EAW vacated by MnDOT on December 20, 2011 (SWLRT-DEIS Appendix F parts 2 and 3). This plan was rejected as unworkable by the TC&W railroad in their comments to the EAW. (http://mnsrailstudy.org/yahoo_site_admin/assets/docs/Railroad_Comments.18891450.pdf)

The next three sentences in this section are also misleading. “Providing a direct connection to the north- south MN&S line would improve accessibility to CP’s Humboldt yard. Currently TC&W interchanges with the CP at their St. Paul yard. Although the Humboldt Yard is much closer, the inefficiency of the existing connection is so great that the extra distance to St. Paul is less onerous” (1-11 and 1-12). These sentences imply that most if not all of the TC&W’s business is with the CP. They also mistakenly imply that the TC&W will be happy to get the connection because it will improve the company’s efficiency. However, the comments made by the TC&W in the EAW show just the opposite ([http://www.mnsrailstudy.org/key_documents--TC&W comments](http://www.mnsrailstudy.org/key_documents--TC&W_comments), page 1, last paragraph; also page 3, first bullet point under “Inaccuracies in the EAW...”). The STB Memorandum to Federal Transit Administration, Region V: Questions and Responses for Surface Transportation Board dated December 10, 2012 received incomplete responses about the interconnection needed for the relocation plan to work. The maps given to explain the new interconnects lacked reference to the extreme grade changes that will take place. Figure 1: Relocation Alternative, MN&S Spur does not indicate the need for a mile long ramp to accomplish the .86% grade ([Figure 1: Relocation Alternative, MN&S Spur](#)) needed to connect the Bass Lake Spur to the MN&S Spur. Furthermore, Figure 3: Relocation Alternative, Re-Established Connection does not describe the 1.2% grade needed to reestablish the connection between the MN&S Spur and the Wayzata Subdivision. ([Figure 3: Relocation Alternative, Re-Established Connection - MN&S Spur to Wayzata Sub](#))

Missing completely from the discussion of the TC&W using the MN&S Spur to go to the Humboldt Yards in New Hope is the impact the added freight traffic will have on Northern St. Louis Park, Golden Valley, Crystal and New Hope. In St. Louis Park alone there are two at grade rail crossings on the MN&S north of the BNSF. One of the crossings is Cedar Lake Road, a major east/west roadway through St. Louis Park yet the SWLRT does not document the traffic counts and the impacts of the crossing being closed on a regular basis.

Reading the last sentence in the first full paragraph of page 1-12 and the non sequitur of the next full paragraph continues the misleading information.

“The proposed connection in St. Louis Park allows the TC&W an alternate route at those times when the BNSF route is not available.

Moving commodities along freight rail lines rather than by semi-trailer truck on the roadway system has a significant effect upon the region’s mobility. TC&W reports that an average train load equates to 40 trucks on the roadway system. Maintaining freight rail connections as a viable method for transporting goods to, from, and within the Twin Cities region contributes to the healthy economy of this region. As the roadway network continues to become more and more congested, moving commodities by freight rail will become more competitive” (1-12).

Placement of the above passage in the context of the discussion of the MN&S interconnects implies that without the interconnects the TC&W will have no choice but to use semi-trucks to move their freight. The HCRRA's praise for the economic and environmental virtues of freight railroads is laudable but at odds with HCRRA's continuing long-term policy of pushing freight rail traffic to ever more marginal scraps of infrastructure. Examples of the HCRRA's displacement of freight railroad traffic from their purpose-built and most direct and efficient routes includes the closure of the former Milwaukee Road mainline that was used by the TC&W and ran below grade through south Minneapolis, and the constriction of the BNSF mainline adjacent to Target Field in Minneapolis. In both of these cases freight rail traffic ceded right-of-way to relatively frivolous purposes, a bicycle trail for the Milwaukee Road mainline and a sports stadium and bicycle trail that constricts the BNSF Wayzata subdivision. The wording of the DEIS uses the phantom assumption that the further constriction of the BNSF line at Target Field by the SWLRT is a fait accompli and re-routing the TC&W is the only alternative to trucking, but leaving the TC&W traffic in its current route provides it a straighter, flatter, safer, shorter, less costly and more direct route to its most important destination in St. Paul. There are other alternatives to placement of the SWLRT and the bicycle trail that will not constrict freight rail traffic at Target Field.

Severing the TC&W's current route through the Kenilworth Corridor as proposed by the SWLRT-DEIS would have the opposite effect of "maintaining freight rail connections as a viable method for transporting goods" (1-12).

The multitude of unsubstantiated and false assertions in this section make it impossible to agree that rail connections between the Bass Lake and MN&S spurs and the MN&S spur and the BNSF Wayzata subdivision are necessary for the improvement of the Twin Cities rail network. Therefore the bullet pointed benefits at the end of this section are not benefits under the current engineering plan in the SWLRT-DEIS.

- *Access to the Savage barge terminal would improve.* The SWLRT-DEIS only has one connection from the Bass Lake Spur to the MN&S Spur. That connection curves north. For the access to Savage to improve there would also need to be a connection from the Bass Lake Spur to the MN&S Spur curving south.
- *Access to CP's Humboldt Yard and other locations on the east side of the metropolitan area would be improved.* The Humboldt Yard is on the north side of Minneapolis, not the east side of the metropolitan area. The problem would not be the access itself, but with the lack of efficiency and economic benefit to the TC&W of that access. The TC&W comments on this point in their EAW comments.
http://www.mnsrailstudy.org/key_documents
- *An alternate route that avoids the downtown Minneapolis passenger station would be available to the TC&W.* Again, the route would be available, but would not prove to be of an economic benefit.
- *The quality of the north-south rail line would be upgraded.* Because the overall benefit of the interconnection does not exist, there is no need to upgrade the current track. (1-12)

1.4 - ***Project Goals and Objectives***

The goals and objectives of the SWLRT-DEIS project are not applied equally to all residents in the study area and this is in violation of the essential purpose of NEPA. The 6 goals stated if implemented without alteration will have a detrimental impact on the residents of St. Louis Park. This details of the detrimental impact will be discussed further in this comment to the SWLRT-DEIS.

1. *Improve mobility* - Due to blocked crossings and the closed crossing at 29th Street mobility in the MN&S reroute area will decrease.
2. *Provide a cost-effective, efficient travel option* - The design as stated in the SWLRT - DEIS is not cost effective for the railroads, and there is no discussion of reliable funding for maintenance
3. *Protect the environment* - The environment in the vicinity of the MN&S will deteriorate. The problems include but are not limited to an increase of noise and vibration and diesel fumes from locomotives laboring to climb steep grades will impact air quality and the threat of derailment and crossing accidents impacts the safety of residents.
4. *Preserve the quality of life in the study area and the region* - Quality of life will decrease in the MN&S area.
5. *Support economic development* - Property Values and Small business will be negatively impacted.
6. *Support economically competitive freight rail system* - Should the proposed reroute be built the opposite to this goal will be accomplished. The rail system in St. Louis Park will not be safe, efficient or effective (1-13 & 1-14).

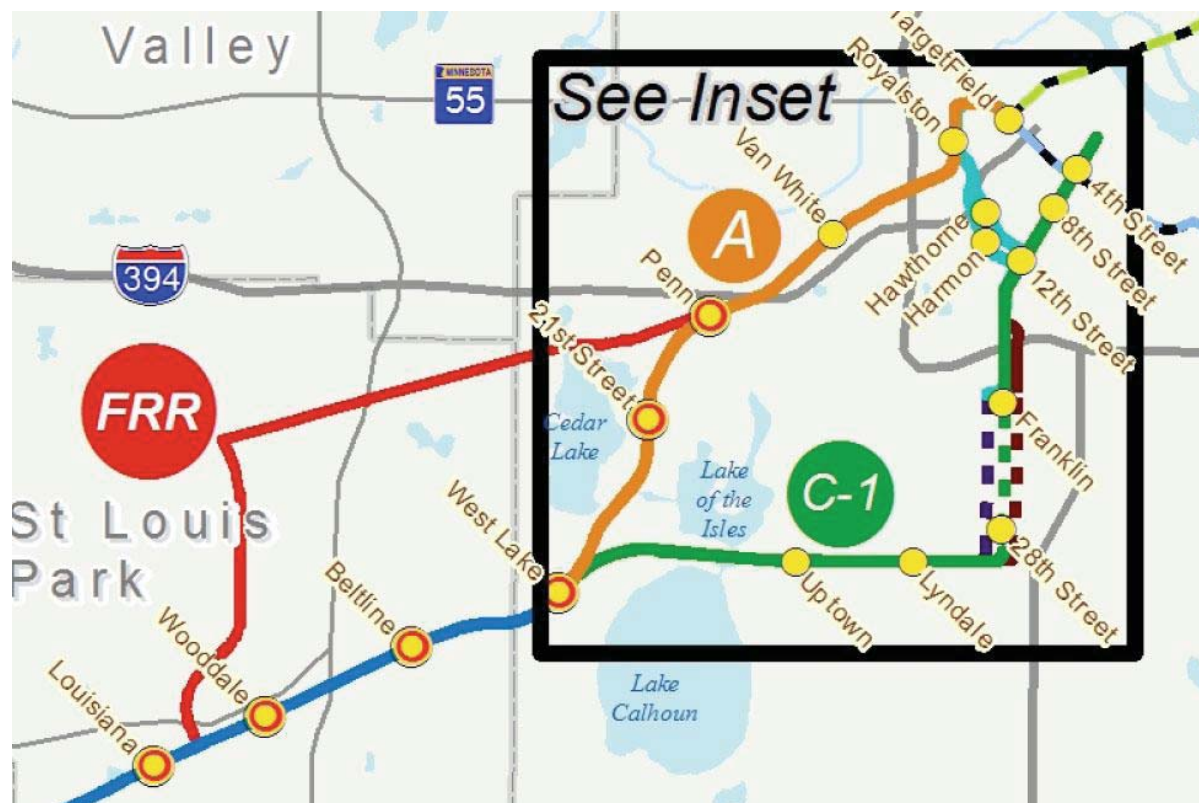
CHAPTER 2 - ALTERNATIVES CONSIDERED

2.1.2 and 2.1.2.1: Paragraphs discuss the Scoping Process that should comply with MEPA and NEPA rules pertaining to open-to-the-public meetings, comment sessions, etc. with regard to the Alternatives Analysis.. However, as the DEIS admits; during that time the City Council of the city of St. Louis Park, the city's residents and businesses were instructed in writing that the freight rail was a separate issue not to be connected with the SWLRT. (The DEIS walks through those events in detail) Therefore this entire time of "public comment" to decide the alternatives should be considered null and void because citizens and municipalities were not properly informed of the environmental impacts of the LPA. That fact should void the entire process for selecting an LPA, an early step in the development of SWLRT, especially when considering that opposition to the re-route by the city of St. Louis Park was not merely implied but the topic of repeated resolutions passed by the city. The city's position was clear. Had the reroute been considered a connected action during that time, it may have significantly changed the question of support for the LPA by the city of St. Louis Park. Furthermore, the process was not consistent with MEPA and NEPA guidelines. Furthermore this influences all of the topics in the DEIS where it is noted that alternatives other than the LPA are not consistent with planned development. This phrase is used repeatedly and refers only to the fact that plans surround the LPA.

2.3.1.3 This is a discussion of the number of trains using the current route. This discussion is not up-to-date. The TCW has added additional trains in the last six months.

2.3.3.1: Discusses the easement rights of St. Louis Park for a portion of land. Though the easement is set aside for railroad development in St. Louis Park, the DEIS is written to appear as though St. Louis Park agreed to the re-route. As stated above, resolutions have repeatedly passed by the city opposing a re-route. In addition the state statute, 383B.81, is quite clear that the easement exists for railroad operations but DOES NOT provide any conditions for St. Louis Park agreeing to railroad operations, only that the land can be used for that purpose.

2.3.3.4 Build Alternative Segments: THERE IS A MAJOR FLAW HERE THAT AFFECTS THE ENTIRE DEIS. This section outlines the segments of the route to be analyzed throughout the DEIS but does so incorrectly. The FRR segment is correctly identified. However, segment "A" includes a long portion of track that will NOT BE AFFECTED by a re-route or co-location. It incorrectly adds all of the people, lands, buildings, institutions, etc. to the Segment "A" when that Section "A" should only include the area between the planned West Lake station and the planned Penn Station; the co-location area. The area from the planned Penn Station to the Target field station is common to both the FRR segment and Segment A. and effects in that area should not be attributed to any segment.



CHAPTER 3 SOCIAL EFFECTS:

1-1.1 discusses the area studied--The study area is wholly incorrect in regard to the Freight Rail Reroute, and the areas chosen for study therefore affect all of the conclusions and render them inaccurate.

The DEIS discusses the area studied to be a ½ mile radius from the LRT track. However, that ½ mile radius is only applied to the LRT portion, not the FRR portion. The text says “the study area has been defined as the area within a one-half mile radius of the proposed Build Alternatives.... and includes the area of the Freight Rail Relocation segment.” The ½ mile area of study does indeed include the FRR area, but does not include a ½ mile radius from the FRR (MN&S tracks) Therefore, much of the area that includes people, schools, institutions, and lands that will be affected by the re-route are not being tallied as an affected area.

An argument can actually be made that not only should the FRR track area of study be a ½ mile radius, but in fact because the weight, vibration, noise, etc. are greater for freight trains than light rail trains, an even broader area should be studied for the FRR.

In section 3.1.2.7, the reported MN&S land use is generalized as follows: the largest proportion of land use along this segment is at over 40% housing; park and undeveloped over 15%; schools about 7%, and industrial/retail/office about 7%. That these figures are generalizations (“over 40%” and “about 7%”) indicates cursory attention to the affected areas. In addition, the land use area along the MN&S is not specified. The DEIS does not report the area being considered. To illustrate my point, it is stated that the co-location area of consideration is within ½ mile of the track, but there is nothing stated about the distance from the track for the reroute.

In section 3.1.2.4, the reported land use along the co-located route is far more specific, indicating careful study: 19.8% housing; 14.1% parks and open space; 10.7% water; and 11.3% industrial.

In spite of the fact that more than 70% of land use along the MN&S directly impacts human activity—but only 45.2% of land use surrounding co-location impacts human activity—the DEIS claims the reroute is the preferred option.

It is unacceptable that the decision to move main-line freight to a spur track be made without careful, serious study. Hennepin County has not seriously considered the negative impacts on community cohesion or safety impacts on residents, school children, and commuters within St. Louis Park. The DEIS fails to accurately or objectively report impacts on rerouted freight traffic.

3.1.8 Summary of Land Use: it's unclear why the 3A-1 is not compatible with existing land use and the 3A is when the freight trains currently run on 3A-1.

On the same summary under the metric: Consistent with adopted regional and local plans, the 3A-1 is listed as Incompatible. This is because the Met Council and others have simply planned for freight rail to go away. (See above argument about the choice of the LPA.

On page 3-15 in the land-use section, the DEIS claims that six separate studies “concluded the best option for freight rail operations was to relocate the TC&W freight rail operations to the MN&S line” (3-15). However, what is missing in chapter three is a list of these “six separate studies.” If the DEIS is referring to studies, then there are serious flaws in each “study,” including the fact that most of them are not true studies at all. The possible studies are listed and outlined in the document below:

Freight Rail Studies

Freight Rail Realignment Study, TDKA—November 2009

- Undertaken for Hennepin County after the locally preferred alternative for SWLRT was chosen. Needed to support SWLRT locally preferred alternative
- No engineering took place

Analysis of co-location of Freight and SWLRT, HDR—August 2009

- Written for Hennepin County to support what is now the locally preferred option.
- No engineering took place

Evaluation of Twin City & Western Railroad (TCWR) routing alternatives, Amphar Consulting—November 2010

- Co-location and re-route are not discussed in this report.

Analysis of Freight Rail/LRT Coexistence, RL Banks—November 29, 2010

- December 3, 2010 – Francis E. Loetterle, lead engineer for RL Banks study issued a letter admitting mistakes made in co-location analysis.
- Study is flawed.

MN&S/Kenilworth Freight Rail Study, SEH—February 2011

- Used best-fit engineering
- Co-location and re-route possible **without** taking properties
- Co-location less costly

MN&S Environmental Assessment Worksheet (EAW), MnDOT—issued May 16, 2011

- Co-location not mentioned in this document
- December 19, 2011—EAW was vacated.
- It is no longer a valid document.

On page 3-22, the HCRRA Staff Report on Freight Rail Relocation (August 2011) is cited as evidence that relocation is the preferred option. Yet, when I click on the link, the web page cannot be found.

In section 3.1.3.1, the DEIS concludes that “re-locating the freight rail activity . . . is identified most frequently by the plans as being the desired alternative for the SW Transitway” (3-26).

Further down, the DEIS includes **Table 3.1-2 Summary of Local and Regional Comprehensive Plans and Studies** (3-20 – 3-26) which identifies three plans that make co-location incompatible, but re-location the desired option.

The three plans are the *Hennepin Transportation Systems Plan* (2011), the *Hennepin County Sustainable Development Strategy 2011*, and the *Minneapolis Parks & Recreation Board Comprehensive Plan* (2007).

The link provided for the *Hennepin County Transportation Systems Plan* (2011) connects to a page that states, “The webpage cannot be found.” Regardless, the fact that the plan was published in 2011—AFTER the Environmental Assessment Worksheet was vacated by MNDOT because the document couldn’t defend its position to reroute freight traffic to the MN&S suggests the reroute plan by Hennepin County is biased and invalid.

The problem of validity is the same for the *Hennepin County Sustainable Development Strategy 2011*. However, this document is problematic for a variety of reasons. The link does not lead to a document that clearly states the co-location is incompatible with LRT, nor does it comment on rerouting freight from the Kenilworth Corridor to the MN&S at all. The following excerpts included below are the only comments in the document that allude to freight traffic:

Midtown Greenway: this six-mile linear corridor across south Minneapolis, opened in phases from 2000 – 2006, exemplifies how a multi-use trail through a low- and middle-income community can create jobs, stabilize property values, foster redevelopment, and encourage non-motorized transportation choices while preserving the opportunity for future transit. The success of this corridor has been enhanced by the Midtown Community Works Partnership, which has provided leadership through its public and business partners and resources for implementation. (9)

Southwest LRT Community Works: This project exemplifies the county’s sustainable development strategy. The proposed 15-mile, 17-station Southwest LRT line, projected to open in 2017, will run from downtown Minneapolis to the region’s southwestern suburbs. The project has advanced through a decade of feasibility studies, an alternatives analysis, and a draft environmental impact statement. A locally preferred alternative for the LRT line was selected in spring 2010. The project is expected to receive federal approval to enter preliminary engineering in spring 2011.

In anticipation of the Southwest LRT project's entry into preliminary engineering, the Hennepin County Board established the Southwest LRT Community Works project to integrate corridor-wide land use, development, housing, and access planning with the LRT line's engineering and design. Southwest LRT Community Works, in collaboration with the Metropolitan Council and its Southwest LRT Project Office, will integrate LRT engineering and land use planning from the outset of the preliminary engineering process. This coordinated work, which also engages the cities and many other stakeholders along the corridor, seeks to maximize economic and community benefits of public transit investments and stimulate private investment within the corridor. [See box for additional information]. (10)

[Box with additional information] ORGANIZATIONAL MODEL

To achieve the objective of integrating LRT engineering with land use and development planning, the county and the Metropolitan Council have jointly developed an innovative organizational model with the following features:

- Multiple organizational linkages between the SW LRT Project and the SW LRT Community Works project, including shared business and community advisory committees, to advise and inform both the SW LRT and the SW LRT Community Works governing bodies.
- A project office housing both the SW LRT project engineering and Community Works staff, including two full time professional staff, an engineer and a planner, charged with actively promoting and managing the dialogue between engineering and land use, both within the project office and throughout the community.
- Community meeting rooms and public space for residents to learn about the LRT project and review plans for associated development. Residents will also be able to submit ideas for consideration, view models of LRT and station area plans, and learn of scheduled public meetings and other community engagement opportunities.

Drawing on Community Works' successful program emphasis on employment development, community connections, natural systems, tax base enhancement, and public and private investment coordination, the county is updating old and adding new programmatic elements. These changes reflect the connections between housing, transportation, employment, environment, health, and energy and their emerging integration in national public policy, finance, and philanthropy. (11)

Place matters: While not highly prescriptive, county plans recognize the importance of transportation choices, enhanced economic competitiveness, and equitable, affordable housing in fostering sustainable communities. (11)

Finally, the *Minneapolis Parks & Recreation Board Comprehensive Plan* (2007) contains one brief excerpt included below that mentions transportation corridors, and again, there is no mention of freight traffic whatsoever:

Work with the City of Minneapolis and other entities to identify and support multi-mode transportation corridors between parks, with preference given to routes that encourage non-motorized linkages between parks. (24)

Section 3.1.3.1, “Land Use and Comprehensive Planning: Conclusions” states the following: “Based on the analysis of local and regional plans and studies, it has been determined that . . . relocating the freight rail activity from the Kenilworth Corridor to the previously planned and existing CP Rail corridor through St. Louis Park (Figure 2.3-2), is identified most frequently by the plans as being the desired alternative for the Southwest Transitway” (3-26).

There is no mention in the “plans and studies” listed in the Land Use Chart of the four separate resolutions signed by St. Louis Park city councils and two different mayors in the document. These resolutions are outlined below. In addition, the St. Louis Park Mission Statement and Vision St. Louis Park are not included in the chart, but the visions and mission statements of Minneapolis are included. Nowhere in the vision statements of St. Louis Park is there a desire for rerouting freight traffic from the CP to the MN&S line. These St. Louis Park plans make rerouting freight the incompatible option.

City Council Resolutions

St. Louis Park

- 1996 resolution 96-73—Opposes any re-routing of freight trains in St. Louis Park. Signed by Mayor Gail Dorfman (now Hennepin County Commissioner)
- 2001 resolution 01-120—Opposes re-routing of freight in St. Louis Park, but points out that the city is willing to negotiate should the need arise.
- 2010 resolution 10-070—Reinforced the 2001 resolution opposing a freight rail re-route.
- 2010 resolution 10-071—Reinforced the 2001 resolution asking for proof that no other viable option for freight exists
- 11-058—Opposes the re-routing of freight because the engineering study commissioned by the city of St. Louis Park proved there is a viable alternative to the proposed re-route.

Minneapolis – There are no Minneapolis City Council Resolutions opposing freight continuing in the Kenilworth Corridor.

St. Louis Park did **NOT** agree to accept the re-route in exchange for the cleanup of a superfund site. Below is a link to the statute and an explanation of pertinent passages.

MINNESOTA STATUTES 2010 383B.81 ENVIRONMENTAL RESPONSE FUND.

- SUBD 6, which states that an easement is being granted to St. Louis Park for economic development and for rail improvements to replace the 29th St. corridor. This can be interpreted to sound like “it will replace the 29th St. corridor and freight trains will be re-routed” and that is why the city of St. Louis Park made their intentions clear in their resolutions. The resolutions were passed in 2001, 2010 and most recently May 2011.
- Nowhere does it state that this money is conditionally granted upon the land being used for a re-route. It merely states that the priority for the site is enough **right- of -way** for railroad operations to replace the 29th St. corridor
- SUBD 8, states that the city must approve any work done on the site.
- The statute is vague as to what the rail improvements would be. If the intent of the statute were to absolutely re-route freight trains to the MN&S, it would say so in those words.
- The reality: If this statute meant that SLP accepted the re-route, the county would merely move forward and cite this statute:
<https://www.revisor.mn.gov/statutes/?id=383B.81&year=2010&format=pdf>

Missing documents...

There are no known documents which support the assertion that the people of Minneapolis were promised the freight trains would be removed.

In 3.1.5.1 “Effects to Land Use and Socioeconomics—Segment A,” the DEIS states, “in order to achieve adequate ROW for placement of the three facilities [existing freight rail, LRT rail, and a bike trail], up to 57 town homes would be removed in the area north of the West Lake Station on the west side of the corridor and 3 single-family houses would be removed north of Cedar Lark Parkway along Burnham Road” (3-34).

Moving the bike trail is not included as a consideration in this DEIS. Even though the DEIS itself cites an additional cost of \$123 million to reroute freight traffic, there is no cost analysis or even consideration for rerouting a bike trail. In addition, the city of St. Louis Park funded its own study regarding the feasibility of co-location when it became clear Hennepin County was not going to study the matter seriously, and this study found co-location possible without taking the 57 town homes. The three houses mentioned in segment A have never been mentioned before, so this property take is unclear.

The DEIS states that for relocation, “land use is not anticipated to change along the primarily residential areas . . . because improvements are within the existing corridor” (3-34). Failure to mention the increased speed (from 10-25 mph), increased grade (to 0.86%), increased vibrations which have not been studied according to this DEIS, and change in freight (from construction materials to coal and ethanol) constitutes negligence. This DEIS fails to adequately study the very serious impacts on the “primarily residential areas,” not to mention the five schools within ½ mile of the MN&S.

The only mitigation mentioned in section 3.1.7 Mitigation is mitigation for construction. No other mitigation is mentioned. A DEIS of this nature should include mitigation for the community accepting freight rail regardless of its route. A full list of mitigation items has been submitted as a DEIS comment by the City of St. Louis Park

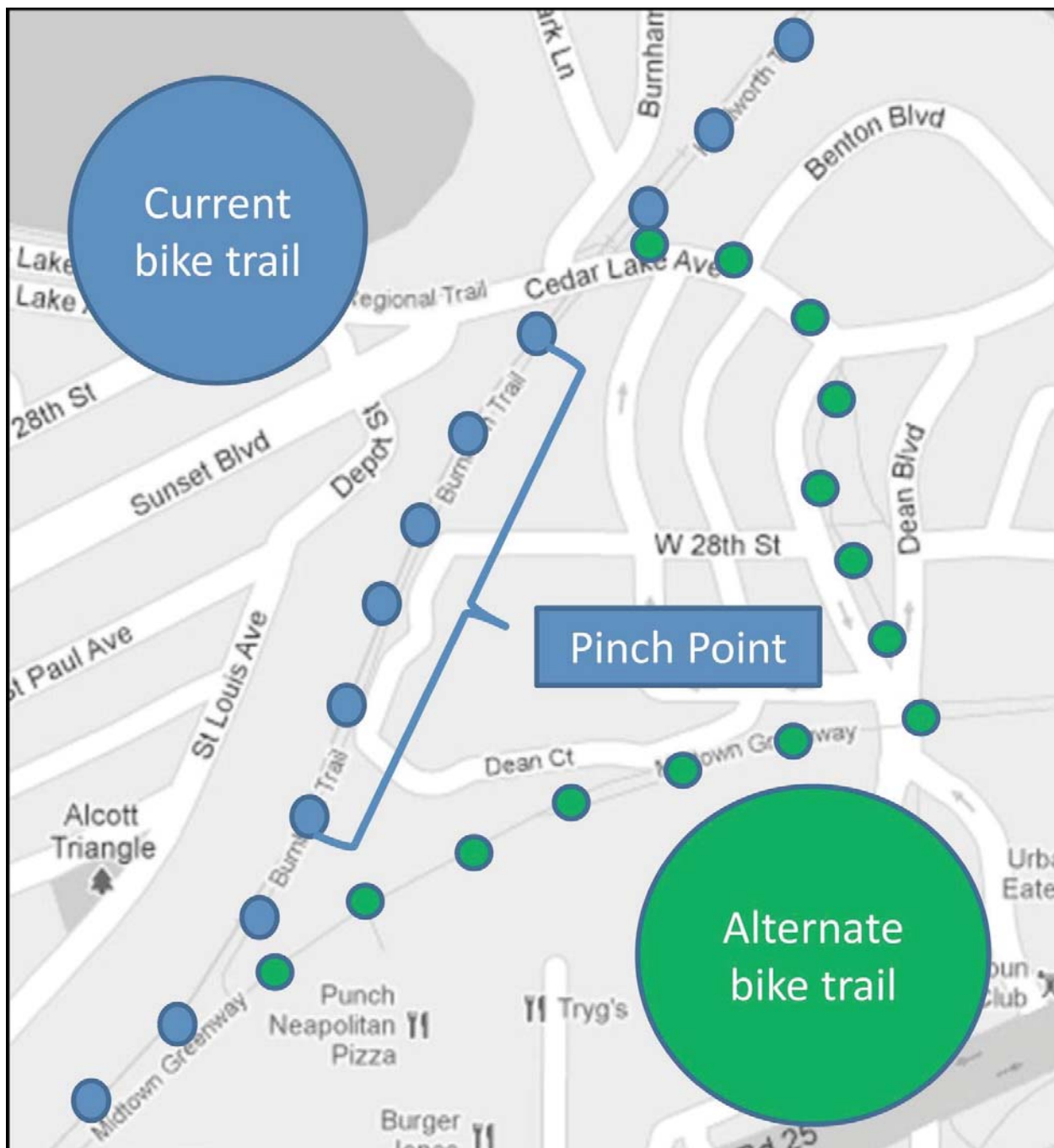
Figure 3-2.1. In this section, neighborhoods are discussed. Again, a very small radius of area is analyzed. The neighborhoods included should be all neighborhoods that where a portion of the neighborhood is within ½ mile of the FRR tracks.

In section 3.2.2.6, “Neighborhoods and Community Cohesion—Segment A,” the DEIS states, “Disruption to the community’s character [with co-location] is the introduction of additional rail facilities, i.e. LRT would be added to existing freight rail operations. With the additional tracks using a wider portion of the HCRRA corridor, the potential to alter historic properties and characteristics of the neighborhood . . . is introduced. The wider corridor with rail operations closer to residences and recreation areas decreases the opportunities for community cohesion” (3-58).

The comment that co-location has “the potential to alter historic properties and characteristics of the neighborhood” fails to recall the historic fact that as many as 14 tracks once occupied that section of the corridor. The historic characteristics of the neighborhood would not be altered at all, but rather, restored—slightly—in the form of one additional resurrected rail line. As described in Minneapolis And The Age of Railways by Don L. Hofsommer (copyright 2005 by Don L. Hofsommer, Published by the University of Minnesota Press) the Minneapolis & St. Louis (M&StL) railroad was operating its line from Minneapolis to Carver, which would have passed through what is now the Kenilworth Corridor, as early as 1871 (pages 36 and 37). At this time in history the MN&S line did not yet exist. The Kenilworth Corridor, then known as Kenwood Yard, continued to be used for mainline freight until the 1980s. The DEIS’ description of the Kenilworth Corridor as “historic,” without consideration of the factual history of the area, further demonstrates bias against co-location rather than serious study.

3.2.2.6 Discussion of neighborhood Cohesions ASSUMES that the 60 townhomes would need taking because of the assumption that the width of the Kenilworth corridor in 1/4 mile section is not wide enough for freight and light rail tracks. In fact, moving the bike trail in that same space would eliminate such a need. “With the co-location alternative, the largest disruption in community cohesion would be the acquisition of 60 housing units” (see Section 3.3).

There is absolutely no discussion of moving the bike trail instead of taking the 60 homes which artificially overstates the costs for co-location. Here is a simple diagram that shows how the bike trail can be re-directed which would cost almost nothing since the entire suggested trail is already a designated bike trail.



In the same section, namely, 3.2.2.6, “Neighborhoods and Community Cohesion—Freight Rail Re-Location Segment,” the DEIS states, “The level of freight rail service through St. Louis Park is not anticipated to change, but would be redistributed to the MN&S Line (Figure 2.3-2). Since the MN&S is an active freight rail corridor and the relocation of the TC&W traffic to the MN&S would add only a small increase in freight rail traffic, significant impacts to community cohesion along the MN&S would not be anticipated” (60).

These statements are flatly incorrect. The relocation of freight will add a significant increase in freight traffic through densely populated residential areas with narrow ROW. Rerouted freight will pass within ½ mile of five schools—within 75 feet of the St. Louis Park Senior High School. In fact, according to the DEIS itself, freight traffic will increase by 788%.

Furthermore, community cohesion will be profoundly, negatively impacted by the increased noise and vibrations due to mile-long coal- and ethanol-carrying trains climbing a grade of .86%, maneuvering through three tight curves in which engineer sightlines are limited to as few as 178 feet. Six at-grade crossings will be blocked simultaneously as the longer rerouted trains travel along the MN&S. The MN&S has never serviced unit trains of coal or ethanol, nor have the trains been longer than 45 cars. Currently, the MN&S services one, 15-20-car train per day, Monday through Friday between 9 a.m. and 6 p.m.—it travels south and returns north once per day. The rerouted traffic will send an additional 258 cars per day, and the trains will effectively travel seven days a week, twenty-four hours per day. These numbers do not include any projected increases in freight traffic.

This DEIS does not seriously consider the detrimental impact on community cohesion for St. Louis Park. It does not include the noise and vibration studies needed for determining real impact as well as necessary mitigation; it does not include traffic counts at the six, at-grade crossings that will experience prolonged blocking due to the rerouted train; it does not include traffic studies that take into account the school bus traffic traveling between the two schools bisected by the MN&S—the St. Louis Park Senior High School and Park Spanish Immersion; it does not take into account the dangerous freight passing within 100 feet and above grade through densely-populated residential areas; and it does not take into account that trains carrying hazardous materials, going around tight corners, accelerating hard to climb the steep grade, or braking hard to travel down the steep grade, will cross on bridges over Highway 7 and Minnetonka Boulevard—two very busy roads—in a compromised position. The rerouted trains would ideally cross on bridges over busy highways/roadways going straight; this is not the case for the MN&S, and there are no derailment studies included in the DEIS that discuss the impacts of this reroute.

3.2.2.6 Quotes “a small increase in freight rail traffic, significant impacts to community cohesion along the MN&S would not be anticipated.” A 788% increase is not small. The average train cars a day traveling the MN&S today is 28. The average daily train cars if the re-route would go forward would be 253 (per S.E.H. Study, April 2011 commissioned by the City of St. Louis Park). It goes on to dismiss other “community cohesion” issues such as:

A. The added freight rail bisects the high school campus, a high school with over 1300 students. This is the primary concern of most St. Louis Park residents. The tracks runs within 35 feet of the high school parking lot and 75 feet of the building itself. The school’s main athletic field is across the tracks from the high school. Children need to cross the tracks very frequently. An entire analysis of this issue along should be in the DEIS. The dangers here are enormous regardless of any planned “whistle quiet” zone. This is particularly dangerous because of the curves of the track and the speed and weight of the trains to be re-routed. The TC&W has publicly stated, and experts agree, that if a child/children are on the tracks for whatever reason, a train WILL NOT BE ABLE TO STOP to avoid a tragedy. With today’s slower, smaller, lighter traffic on that line, trains CAN stop. This is a core issue.

B. The traffic issues of blocking six at-grade auto/ped crossing including school busses entering/exiting the high school and the ripple effect of those issues because our school system “cycles” those buses from school to school.

C. The inherent danger of the longer, faster, heavier freight trains running near hundreds of homes, in some places on elevated tracks.

D. The noise, vibration issues for all residents and schools in the area.

Ironically, the DEIS states that “moving Freight rail service to the MN&S line will benefit the bus transit system by eliminating delays caused by freight rail operations. The removal of freight rail service from the Wooddale Avenue and Beltline Boulevard areas of St. Louis Park and the West Lake Street area of Minneapolis will make these areas more attractive for development/redevelopment, especially for housing” (60).

If moving freight out of an area will benefit that area, then it is certainly reasonable to assume that moving that same freight into another area will cause harm. The DEIS clearly states that “community cohesion along the MN&S would not be anticipated” (60). The document itself contradicts a fundamental issue that it purports to seriously study. This DEIS does not represent a legitimate look at co-location or re-location. It simply documents a wish by county officials to move freight traffic from its historical, logical, and safe location to a different, less-desirable location.

In section 3.2.2.7 titled “Summary of Potential Impacts by Build Alternative,” the following is stated: “LRT 3A-1 (co-location alternative) has the potential for adverse community impacts because of the conflicts that could result from having an excess of activity confined to an area not originally intended for such an intense level of transportation. In this scenario a relatively narrow ROW corridor would be forced to accommodate a freight rail line, LRT, and a multi-use trail creating an even greater barrier to community cohesion in Segment A” (3-61).

Again, the assertion that the co-location area was “not originally intended for such an intense level of transportation” is ludicrous in light of the historical facts. The Kenilworth Corridor (where co-location can occur) was originally an intensively used rail route that contained 9 separate rail lines at its narrowest point, and 15 lines at its juncture with the BNSF. In fact, the bike trail is currently using an old rail bed; this could be used by the LRT line, and safety would not be compromised as a result. Additionally, at-grade crossings would not be blocked simultaneously with co-location, nor would the freight and LRT pass residential housing above-grade, nor would the lines pass five schools within ½ mile, nor would taxpayers needlessly spend an additional \$123 million.

The DEIS also states that “the addition of the Freight Rail Relocation to all of the alternatives above would have a positive impact to adjacent neighborhoods or community cohesion because removal of freight operations along Segment 4 would eliminate a barrier to community linkages” (3-61).

This sentence simply ignores the fact that relocation would profoundly impact community cohesion in St. Louis Park. If the train is rerouted, six at-grade crossings will be blocked simultaneously by unit trains—cutting off emergency vehicle routes; the St. Louis Park Senior High School’s campus will be blocked by these same unit trains for 10-15 minutes at a time; the school’s bus transportation system will be seriously impaired due to the blocked intersection between the high school and Park Spanish Immersion; residents will face the introduction of noise and vibrations never experienced before (and not studied) in St. Louis Park as a result of the intensive grade increase to get the trains from the CP line to the MN&S. There is not one single “positive impact to adjacent neighborhoods” along the MN&S, and the DEIS itself fails to mention how relocation is an “improvement.”

In Table 3.2-2. “Summary of Neighborhood, Community Services, and Community Cohesion Impacts by Build Alternative,” co-location is cited as incompatible because “Some neighborhoods are concerned about keeping freight rail and some neighborhoods about additional freight rail traffic” (3-67). What is missing from this table are the robust concerns that St. Louis Park city officials have expressed over a decade in the form of four different resolutions. In addition, St. Louis Park residents/neighborhoods have been extremely vocal. They have expressed their concerns in the following ways: Over 1500 people signed a petition requesting co-location rather than relocation; hundreds of residents attended and spoke at two separate listening sessions held by the City Council of St. Louis Park which Gail Dorfman, county commissioner, attended. Notably, Ms. Keisha Piehl of 6325 33rd St. West in St. Louis Park spoke directly to the question of community cohesion during the April 2012 listening session (http://www.stlouispark.org/webfiles/file/Comm_Dev/freight_comments.pdf).

St. Louis Park citizens, city council members, and the mayor attached extensive mitigation requests to the EAW before MNDOT vacated the document—much of that EAW is repeated in this DEIS, but the city’s and residents’ requests are not acknowledged; the Project Management Team assembled by Hennepin County included residents that represented each of the neighborhoods of St. Louis Park, and the representatives repeatedly voiced concerns about the engineering plans—those concerns were completely ignored. There are many more ways in which St. Louis Park neighborhoods voiced concerns (i.e. letters to the editor in the *Minneapolis Star Tribune* as well as other local newspapers, letters to city, county, state, and federal representatives, and so on). These concerns have been consistently ignored by Hennepin County officials and continue to be disregarded in this DEIS, but they must be included.

There is a core analytical flaw in section 3.2.2.8. It compares effects between section FRR and section A. However, it is flawed because the effects of segment “A” take into account the area north of Kenilworth corridor even though that area will be affected with or without the FRR. Therefore, this is not a reasonable conclusion. The conclusions should be drawn only from a comparison of the FRR vs. Segment A minus the area north of the point approximately at the planned Penn Station. In addition the parkland affected is overstated in the co-location alternative because in this portion entire parcels are counted while the actual amount of space affected by the freight train is nominal. Because the Cedar Lake Park is so large, it appears there is a potential large impact even though the actual area impacted is quite small.

Table 3.6-3. Visual Effects by Segment listed ZERO visual effects for the FRR because the actual Re-route is not examined, only the effects of the LRT. Even though it is clear that there will be major visual effects by the building of the ramp and the enormous increase of freight traffic in the relocation area.

3.3.3.3 Relocation plans assume purchasing of all of the town homes on the Kenilworth corridor as opposed to moving the bicycle trail. It also arbitrarily assumes the Co-location homes need taking but none of the Relocation home needs taking without any apparent analysis of how that is determined. i.e; # of feet from the tracks, etc.

In section 3.4.5.3 titled “Build Alternatives,” the DEIS states that “No National Register listed or eligible architectural resources have been identified within Segment 3” (3-79) which is the co-location segment. However, further down this page, the DEIS states that because of “the construction of new bridge structures within the historic district[,] the design and footprint of these structures may affect the banks of the historic channel and may affect the district’s overall feeling and setting” (3-79).

The language on this page suggests a direct contradiction. If there are not nationally registered resources in the corridor, why will the “historic channel” be affected? What determines “historic”? The language itself demonstrates bias against co-location and helps to explain the numerous, puzzling exclusions in the DEIS of the negative impacts related to relocation.

To be fair, the DEIS does acknowledge the following regarding relocating freight to the MN&S:

3.4.5.3 Build Alternatives: Freight Rail Relocation Segment

Architectural properties in Segment FRR, which are listed in or eligible for the National Register include two historic districts and two individual properties. See the summary table and map for Segment FRR in the tables in the Section 106 Consultation Package in Appendix H.

Potential long-term effects may occur at the following properties:

- Brownie and Cedar Lakes, including the connecting channel, part of the Grand Rounds historic district (potential effects of new track construction on the features and settings of lakes and channel)

Other potential effects to historic properties in Segment FRR relate to potential noise issues.

Three areas with archaeological potential, comprising 3 acres, were identified in the Supplemental Archaeological Phase 1A along Segment FRR. Any of these that are found eligible could experience impacts from construction. (3-81)

In spite of the acknowledged impacts to historical resources along the MN&S, the DEIS favors rerouting freight rather than co-locating because the “overall feeling and setting” of the Kenilworth Corridor may be impacted (3-79). It is not made clear by the DEIS how one determines “feeling and setting” or how one even defines these attributes. What is missing from this section is commentary on how the “overall feeling and setting” will be negatively impacted along the MN&S.

In Table 3.5-2: “Potential Direct Impacts to Parkland by Segment,” the DEIS states that “no permanent impacts [are] anticipated” for the three parks along the reroute, namely Roxbury, Keystone, and Dakota (3-94). However, further down, the DEIS states that “construction footprints for the Freight Rail Relocation segment have not been developed, so acreage of temporary and long-term impacts have not been developed” (3-96). Any statement regarding impacts do not reflect reality when “construction footprints for the [FRR] segment have not been developed” (3-96). Nothing intelligent can be said about the impacts on these parks when the areas have not been studied.

Not surprisingly, the DEIS reveals that “conceptual engineering indicates that Segment A (co-location) would have a long term impact on approximately 0.88 acre. This includes a long term impact on approximately 0.81 acre in Cedar Lake Park, approximately 0.07 acre in Cedar Lake Parkway and approximately 0.01 acre in Lake of the Isles for widening the corridor to accommodate the freight rail line” (3-95). It is unclear why the corridor needs to be widened to accommodate the freight-rail line when the line already exists in the corridor, but the DEIS does not explain this mystery. In addition, as stated earlier, at its narrowest point, the corridor housed nine separate rail lines. The bike trail that now parallels the freight line is on the freight ROW; it is using an old rail bed. There is no need to widen an already wide corridor.

3.7 Safety:

- A. No derailment study. merely a mention of “no recent derailments”. There was at least one derailment on the MN&S within the last 20 years. And there was one derailment just two years ago of the actual trains that are to be relocated.
- B. Only two schools are listed as being “nearby” the freight rail reroute. Why is the area studied simply “nearby” and not the ½ mile rule that is used in the rest of the DEIS. If that rule was used 6 schools would be listed. Only 2 parks are listed on the FRR using the same methodology. In fact, there are more.
- C. At grade safety evaluation looks at HISTORY only when it recaps that no incidents have happened. However, this is an incorrect statement because the evaluation does not examine the new train traffic that will be realized.
- D. The entire examination of properties list the “dwellings within 50 feet” versus “property within 50 feet”. It is reasonable to assume that homeowners whose backyards and garages are within 50 feet of the tracks will experience a significant safety risk because that property is inhabited.
- E. The schools are listed as merely “entities” versus people. Therefore, an incorrect comparison is done when considering people impacted. The high school alone contains over 1300 students. Other schools contain hundreds of students as well. These numbers should be included in safety hazards.

CHAPTER 4--ENVIRONMENTAL EFFECTS:

4.6 Air Quality, pages 66-76

MN&S Freight Rail Report from Appendix H part 1, pages 109-113

The conclusion reached in the air quality section excludes important criteria and flawed assumptions. The proposed action for the Freight Rail Relocation will result in significant increased exposure to a multiple health risk sources and decreased livability for residents.

Flawed Assumption: The DEIS states that 'freight relocation will not be a net increase in train operations but rather a relocation.' This overarching statement fails to consider that the relocation of freight is from a highly industrial land use to a high-density residential area with park and school facilities. Population density maps indicate that the majority of the area along the MN&S Sub is 1000-7500 with pockets of 7500+. In comparison, the area adjacent to the Bass Lake Spur has significantly less population density (Attachment Appendix 4).

Flawed Assumption: The relocation of freight is from the Bass Lake Spur with a straight, relatively flat track and larger ROW. The MN&S ROW is significantly smaller which means that the residents will be in closer contact to the pollution source.

Missing Information: The grade characteristics of the MN&S Spur will cause an increase in the amount of locomotive throttle needed. The necessary connection will introduce gradients that are not currently part of operational activities in St Louis Park: Wayzata Subdivision connection is 1.2% and Bass Lake Spur connection is 0.86%. TCWR commented on this aspect during the MN&S Rail Study EAW: greater grades will result in increased diesel emissions due to the need for more horsepower because of the increased grade (Supporting data A, page 4). There is no assessment for this fact.

Missing Information: The Freight Rail Re-Route design includes a siding track along the Wayzata Subdivision in St Louis Park, Minneapolis. The purpose of this siding to allow for the TCWR to wait for access to the shared trackage along Wayzata Subdivision, from approximately Penn Ave through the Twins Station congestion area. This area is shared with BNSF and Metro Transit NorthStar line. There is no discussion of how this idling of the locomotives will negatively impact air quality. Furthermore, once the siding is in place it will be possible for not only TC&W trains to use the siding, but also BNSF trains. It is possible that the siding could be in use twenty-four hours a day, seven days a week, three-hundred-sixty-five days a year. There is no discussion about how this very possible increase in idling trains will affect air quality.

Flawed Assumption: page 4-76. It states that the queuing of vehicles when freight blocks an intersection will be similar with or without Freight Rail Reroute and would not impact air quality. This statement fails to consider the following: 1. Wooddale and Beltline Blvd are the roads in St Louis Park that would have freight removed. However, these intersections will still have significant congestion from SWLRT crossing and blockage 2. The re-routing of freight will be to an area that has more at-grade crossings (5 vs 2) and within closer proximity of each other. All five crossing on the MN&S are within 1.2 miles but the crossing on the Bass Lake Spur are approximately one mile apart. Motor vehicles will be idling significantly more while waiting at multiple at-grade crossings 3. The close proximity of the at grade crossing on the MN&S will have an accumulative impact. Trains of 20 or 50 cars will block three intersection simultaneously. Trains of 80 or 100 cars will block all five intersections simultaneously (MN&S Report, Table 5 on page 105).

Inconsistent Statements: Page 4-72. The Freight Rail ReRoute is described as not regionally significant according to MnDot definitions. It is therefore not evaluated or accountable to air quality conformity, including CAAA requirement and Conformity Rules, 40 C.F.R 93. This application of being not significant is contradicted in other areas of the SWLRT DEIS. Including the finding in Chapter 1 of the SWLRT-DEIS that there is a "Need to Develop and Maintain a Balanced and Economically Competitive Multimodal Freight System "(1-10)

Action requested: The EPA has tightened the fine particulate regulations in December 2012. One possible source for soot pollution is diesel emissions which is a possible issue with the freight rail relocation. The locomotives that struggle with the increased grade changes will release an increased amount of diesel fumes. the air quality section should be revised and updated to reflect the tighter regulations.

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions, and inconsistent statements can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed reroute prior to making decisions.

4.7.7 Noise Impacts to the Freight Rail Reroute

Section 4.7.7, pages 99-104

MN&S Freight Rail Report from Appendix H part 1, pages 114-124

It is important to highlight the current existing traffic is during day hours, specifically from 9 a.m. to 4 p.m., on a Monday-Friday basis. With this situation, a resident with a traditional 9-5 job pattern would have very minimal exposure to the current freight. The proposed action will expand the hours of noise impact to 7AM through evening hours. In addition, the unit trains travel during the overnight hours whenever needed for business. Also, the days of service will increase to weekend usage with at least 6 days of service, if not everyday. This is significant because the current impacts to residents are limited to weekday hours with minimal impact on social, family, or neighborhood events.

It is also important to highlight that the information and hard data used to assess impacts SWLRT DEIS is a repurposing of the MN&S Freight Rail Study EAW. The EAW was in appeal process with both the City of St Louis Park and a residential group when the document was 'vacated'. It has been used in the SWLRT DEIS as the hard data, included in the Appendix H as a the MN&S Freight Rail Study. It is reasonable to state that the same issues that were being appealed with methodology, impact assessment, and environmental act violation exist in the SWLRT DEIS.

Comment on Section 4.7.7 regarding the field study, noise analysis

There is disagreement with the methodology used in the Noise Section in the MN&S report in the appendix. This report is the document used as the field work to evaluate the noise impacts for the Freight Rail Reroute in the SWLRT DEIS. The noise analysis is located in the MN&S Report on pages 114-124. The noise assessment is both missing important criteria and has flawed assumptions within the scope of the field work.

Missing Information: There is no noise assessment or field data gathered for the existing noise along the Bass Line Spur. This data is critical for the full understanding of the existing noise level of the TCWR traffic and how this level of noise compares to the noise measurement taken along the MN&S tracks.

Missing Information: The Bass Lake Spur to MN&S Spur connection will be a mile long structure that has a 0.86% grade change. The noise assessment in the MN&S Report does not discuss or evaluate how this new structure will impact noise. TC&W commented to this aspect- specifically stating that there will be increased and significant noise due to accelerating locomotives struggling to make the increased grades (Supporting data A, page 4). In addition, the City of St Louis Park Appeal to the MN&S Freight Rail Study EAW stated that the noise section did not address the noise created by additional locomotives needed to pull trains up the incline (Supporting data B, page 15).

Missing Information: The Bass Lake Spur to MN&S connection is a large and significant bridge structure with a tight curve. The noise assessment in the MN&S Report does not study or consider the impacts to the homes located on southeast corner (east of the MN&S Spur, south of the Bass Lake Spur). The residents will have an introduction of noise from a new source due to the additional locomotive throttle and curve squeal.

Missing Information: The MN&S Report and the noise assessment does not consider the grade needed to connect from the BNSF Wayzata Subdivision to the MN&S Spur. This is the area of the project that is known as the Iron Triangle. It is identified as a 1.2% grade on the MN&S Alignment Profile (Attachment Appendix 4). TC&W identified this missing information in their comment to the MN&S Freight Rail EAW (Supporting data A, page 4).

Missing Information: The MN&S Report does not assess the noise impacts to the residential homes near the Iron Triangle. The use of the Iron Triangle for the connection from the MN&S Spur and the BNSF Wayzata Subdivision includes changing the land use from an inactive to an active rail corridor. The adjacent residential homes are located at 50-100 ft distance from the proposed connection. In addition, this is an introduction of freight noise not current experienced by the community.

Missing Information: The Bass Lake Spur to MN&S Spur connection will include an eight degree curve. The field data in the MN&S Report does not evaluate the potential of this curve to be a noise source. Again, a comment by TC&W states that “the increased curvature creates additional friction, which amplifies the noise emissions including high frequency squealing and echoing” (Supporting data A, page 4). The City of St Louis Park also included the squealing wheel as a noise source in the appeal to the EAW (Supporting data B, page 15).

Missing information: The MN&S Report does not include assessment on the noise source of the stationary crossing signals and bells. It does not assess the noise generated from these stationary sources as either a solo intersection or as multiple intersection events. The characteristics of the MN&S sub includes 5 at grade crossing within close proximity. It is fact that multiple crossings will be blocked simultaneously with the re-routed freight causing all stationary sources of noise to be generated simultaneously. This characteristic will compound noise impact.

Missing Information: FTA Noise and Vibration Manual, Section 2 3.2.2: It is recommended that Lmax be provided in environmental documents to supplement and to help satisfy the full disclosure requirement of NEPA.

- The Lmax was not included in the noise section of the MN&S Report which would satisfy full disclosure.
- FTA Noise and Vibration Manual, Appendix F Computing Maximum Noise Level or Lmax for Single Train Passby (Attachment Appendix 4).
- The net change of Lmax will be significantly increased due to the increase in variables from the existing traffic to the proposed traffic. The variables expected to increase are speed (10 MPH to 25 MPH proposed), Length locos (2 locomotives current vs 4 locomotives for proposal to re-route) and Length cars (average current traffic is 20 cars vs 120 cars in the proposed rerouted traffic). This is a significant and important measurement that could be used to better understand the change in noise impacts.
- MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray, et al cites the lack of information on the Lmax as evidence that the noise study is inadequate. In detail, the appeal states that the use of Ldn is inadequate because it is an average noise level over 24 hours, not reflective of the noise impacts that a resident will actually hear (Supporting data C, page 23).

Flawed assumption: The noise section assumes that the re-routed freight will be able to travel at 25 MPH without consideration of the grade change of both the current MN&S profile and the new constructed interconnect structure.

Flawed assumption, improper analysis: The noise assessment was done with the current MN&S freight which has 2 locomotives and 10-30 cars. The freight traffic that will be rerouted will have trains that have up to 4 locomotives and 120 car length and it is projected to be a 788% increase as compared to the current freight. The noise assessment in the MN&S Report uses the current freight noise without consideration that the train profile will change, the amount of time of exposure to the noise will increase due to more trains per day with expanded hours of operation, and the duration per pass by will increase.

Missing information, improper analysis: Table 11 on the MN&S Report has a list of properties that are expected to have severe noise impacts. The distance to the impacted sites vary from 80 to 355 feet, with 273 out of the 327 total sites within 120 ft. In general, this analysis is improper because the impacts to the LRT sections are discussed as within half mile. The greatest distance discussed for freight is 355ft so the methodology for noise impact is not equally applied. Specifically, it is highly probable that expanding the impact footprint will increase the numbers for both moderate and severe impacts. Therefore, the number of sites with impacts is grossly underestimated.

Flawed assumption: There are currently no trains on the MN&S during night hours. The proposed re-routed freight will include unit trains at night. This is briefly discussed in the noise analysis but it was minimized and not properly described as a significant negative impact. The City of St Louis Park appeal asked that this noise source be considered a severe impact (Supporting data B, page 15).

Flawed assumption: The noise impact section for the FRR section describes that all severe noise impacts are a result of the train whistle at at-grade intersections. It is also a flawed assumption to state that a quiet zone will eliminate all severe noise impacts. Page 4-101. The assertion is not correct because the noise assessment within the MN&S Rail Report is missing data as described above.

Table 4.7-13 MN&S Relocation Noise Impacts: This table describes that there would be moderate noise impacts at 95 sites and severe noise impacts at 75 sites. This data is grossly underestimated. It is not possible to understand or evaluate the impacts because the field work and assessment had missing data and flawed assumptions as described above.

Figure 4.7.2- The figure does not include the noise sites for the Freight Rail Reroute. This is missing information and should be considered as an argument that the project proposer has not studied all sections equally or with due diligence.

Comments on the mitigation proposed for noise impacts

Federal guidelines:

FTA Noise and Vibration Manual 2 Section 3.2.4- Mitigation policy considerations--Before approving a construction grant--FTA must make a finding that ...ii the preservation and enhancement of the environment and the interest of the community in which a project is located were considered and iii no adverse environmental effect is likely to result from the project or no feasible and prudent alternative to the effect exist and all reasonable steps have been take to minimize the effect.

Reasonable steps have not been taken to minimize the effect. The only mitigation for noise is a Quiet Zone but after this mitigation, the level of noise impact is still moderate. Assuming that the assessment is valid and complete.

The noise mitigation section of the manual (section 3.2.5) state that moderate level noise should be further mitigated under certain circumstances/factors. There is a compelling argument for mitigation when a. large number of noise sensitive site affected b. net increase over existing noise levels c. community views. The NEPA compliance process provides the framework for hearing community concerns and then making a good faith effort to address these concerns.

The Freight Rail Relocation is within a high density residential community and within half mile of 5 schools. The MN&S tracks have a narrow Right of Way with many adjacent residential parcels at 50-100 ft. It is within reason to state and request that further mitigation should be part of this SWLRT DEIS due to FTA noise and vibration manual description (section 3.2.5).

A Quiet Zone is described as reasonable mitigation for the noise impacts for the FRR section. A quiet zone evaluation is done with the FRA, MNDot, and Rail companies. The evaluation of the possible improvements needed are based on vehicle traffic traditionally. In fact, the rules on how pedestrians and pedestrian safety should be treated is not clear. It is improper to consider and/or a design a quiet zone in FRR without proper weight on the high pedestrian use of the St Louis Park High School area. In addition, it is critical to note that the traffic analysis within the MN&S Report includes no data on pedestrian or bike traffic for the FRR section. The residents and communities requested this additional count information but were repeatedly ignored during the PMT meeting on the MN&S Study.

The real life situation is that the school is bookended by two blind curves, making it impossible for a rail conductor to view a dangerous situation in time to divert a disaster. The conductor has the right to blow their horn in situation that are considered hazardous, regardless of a quiet zone status. The characteristics of the MN&S have innate conditions with close populations of students, division of a school campus, and blind curves. It should be factored in the noise analysis that the railroad companies will continue to use whistles.

The proposal for a Quiet Zone was also included in the MN&S Freight Rail EAW. Both the Canadian Pacific Railway and TC&W Railroad commented in a negative manner during the comment phase. CP stated "designing and constructing the improvements needed for FRA requirements may be difficult- especially considering the site and geometrics of the corridor." Supporting document d. The comment by TC&W was that they "have safety concerns due to a number of factors: 1. increase in train size, speed, and frequency: 2. proximity to schools, businesses, and residential and 3. an increased number of at grade crossings" (Supporting document A, page 5).

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed reroute prior to making decisions.

Action requested: SWLRT DEIS should include a diagram, discussion, and specifics of the quiet zone designs proposed. This is necessary prior to a decision on the freight issue in order to understand if a Quiet Zone is even feasible or realistic for the FRR.

Action requested: SWLRT DEIS should include a full list of mitigation that could be considered for both moderate and severe noise impacts for the FRR.

Action requested: SWLRT DEIS should include mitigation option if the implementation of a quiet zone is not plausible.

Action requested: The project management for the SWLRT should engage and include the EPA in the discussion of the noise impacts to the FRR. It should act in accordance to the Noise Control Act (1972) Pub.L. 92-574 (sec. 1). "The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare." This interaction should include all stakeholders, including the City of St Louis Park, operating rail companies, and impacted residential groups.

Action requested: The project management should include consideration of the legal precedents for noise impacts and inverse condemnation. *Alevizos et al. v. Metropolitan Airport Commission* no 42871 on March 15, 1974 is an example. In this case: Inverse condemnation is described as "direct and substantial invasion of property rights of such a magnitude that the owner of the property is deprived of its practical enjoyment and it would be manifestly unfair to the owner to sustain thereby a definite and measurable loss in market value which the property-owning public in general does not suffer. To justify an award of damages, these invasions of property rights must be repeated, aggravated, must not be of an occasional nature, and there must be a reasonable probability that they will be continued into the future." Although the noise source in this lawsuit was airport based, it is reasonable to use the same guiding principles for the Freight Rail Re-Route section. The FRR, if implemented, is an introduction of a transit method which will have significant impacts to the communities.

source:<http://airportnoiselaw.org/cases/alevizo1.html>

4.8.4 Vibration Impacts to the MN&S Freight Rail Relocation, page 117
MN&S Freight Rail Report from Appendix H part 1, pages 124-130

It is important to highlight the current existing traffic is during day hours, specifically from 9AM to 4PM, on a Monday-Friday basis. With this situation, a resident with a traditional 9-5 job pattern would have very minimal exposure to the current freight. The proposed action will expand the hours of noise impact to 7AM through evening hours. In addition, the unit trains travel during the overnight hours whenever needed for business. Also, the days of service will increase to 7 day per week. This is significant because the current impacts to residents are limited to weekday hours with minimal impact on social, family, or neighborhood events. The neighborhoods were developed around a secondary infrequently used track. The re-routed freight will increase the tracks to a moderate use freight line.

It is also important to highlight that the information and hard data used to assess impacts SWLRT DEIS is a repurposing of the MN&S Freight Rail Study EAW. The EAW was in appeal process with both the City of St Louis Park and a residential group when the document was 'vacated'. It has been used in the SWLRT DEIS as the hard data, included in the Appendix H as a the MN&S Freight Rail Study. It is reasonable to state that the same issues that were being appealed with methodology, impact assessment, and environmental act violation exist in the SWLRT DEIS.

There is disagreement with the methodology used in the Vibration Section in the MN&S report in the appendix. This report is the document used as the field work to evaluate the vibration impacts for the Freight Rail Reroute in the SWLRT DEIS. The assessment is both missing important criteria, improper analysis, and flawed assumptions within the scope of the field work.

Missing Information: There is no vibration assessment or field data gathered for the existing vibration along the Bass Line Spur. This data is critical for the full understanding of the existing vibration level of the TCWR traffic and how this level of noise compares to the vibration measurement taken along the MN&S tracks. TC&W commented on this missing information during the comment phase for the MN&S Rail Study EAW (Supporting document A, page 4).

Missing Information: The Bass Lake Spur to MN&S Spur connection will be a mile long structure that has a 0.86% grade change. The vibration assessment in the MN&S Report does not discuss or evaluate how this new structure will impact vibration.

Missing Information: The Bass Lake Spur to MN&S connection is a large and significant bridge structure with a tight curve. The vibration assessment in the MN&S Report does not study or consider the impacts to the homes located on southeast corner (east of the MN&S Spur, south of the Bass Lake Spur). The residents will have an introduction of vibration from a new source which is missing for the scoping of the field study.

Missing Information: The MN&S Report and the vibration assessment does not consider the grade needed to connect from the BNSF Wayzata Subdivision to the MN&S Spur. This is the area of the project that is known as the Iron Triangle. It is identified as a 1.2% grade on the MN&S Alignment Profile (Attachment Appendix 4).

Improper analysis: The same impact guidelines were not used in the vibration impacts for the LRT and the Freight Relocation. For the MN&S Report, the locomotive events were considered infrequent and the rail car events was considered occasional. Appendix H, page 127. For the vibration impacts on the alternatives, the SWLRT DEIS describes the locomotive events to be infrequent also but the rail car events was described as heavy. Page 4-107, 108. The distance for heavy, frequent impacts are at distances of 150 ft. The DEIS statement and the MN&S Report statement do not support each other, conflicting data presented. In addition, the only impacts discussed was at 40 ft but the proper distance should be 150 ft. This improperly underestimates the number of sites which would have vibration impacts.

Missing information: The MN&S Report does not include any information on the proximity of the MN&S tracks to structures at adjacent parcels. The MN&S Report also does not discuss how the building of the connection in the Iron Triangle will introduce a vibration source to the adjacent residents.

Improper analysis: The field work and vibration measurements were established with two train passages: both with two locomotives, one with 6 cars and the other with 11 cars. The existing freight conditions on the MN&S are described in the MN&S Report as 2 locomotives, 10-30 cars. Based on this, the vibration measurements were taken with either below or at the low end of the current vibration conditions. It is improper to consider these measurement as representative of the existing vibration.

Improper analysis: The vibration impacts to the Freight Rail Relocation was evaluated with the current freight traffic. This is improper because the re-routed freight will be significantly different: increased locomotives from 2 to 4, increased rail cars from 20 to 120, increased of speed from 10 MPH to 25 MPH. The result of this error will be that the vibration impacts will not be accurate. The City of St Louis Park commented on this in the appeal to the MN&S Freight Rail Study EAW: vibration analysis doesn't accurately reflect existing and proposed rail operations because the field work is based on existing short train (Supporting data B, page 16).

Improper analysis: An independent vibration study was done by a Lake Street business owner during the MN&S Freight Rail Study (Attachment Appendix 4). With consideration of the independent study, the vibration information within the SWLRT DEIS and the MN&S Report are improper due to 1. Measurements within the building were 84 VdB. According to the MN&S Rail Study, impacts for category 2 is 72 VdB for frequent events. The impacts specs for frequent events in category 3 is 75 VdB. The conclusion in the independent study is that vibration currently exceeds federal guidelines. 2. the independent measurements were taken within a 24 second time frame. The proposal to re-route traffic is expected to travel past a fixed point for 10 minutes. 3. The independent measurements were taken within a brick construction structure. In

comparison, vibrations have increased impacts within 'soft' construction which is typical of residential house construction. It is reasonable to state that the vibration within an adjacent residential structure would be greater at the same distance. 4. Note: The independent study was conducted on April 13, 2011. The MN&S Study measurements were taken in February 2011 during a year with record snow accumulations. It is possible that the MN&S Report Field study is improper because weather and normal winter ground conditions allowed for an erroneous low measurement. The MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray.... appealed on the independent study and the failure of the project management for the MN&S Report to address inconsistencies between the two field studies (Supporting data C, page 26).

Improper Analysis: The MN&S Report discusses the vibration impacts based on the vibration levels needed for property damage. It fails to discuss the level of vibration considered for human annoyance. The MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray.... appealed on this omission (Supporting data C, page 27).

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed reroute prior to making decisions.

Action requested: the FTA noise and vibration manual points out that vibration control measures developed for rail transit systems are not effective for freight trains. Consideration of this information should be weighted within the discussion of impacts.

Action requested: SWLRT EIS should include a full list of mitigation that could be considered for both moderate and severe vibration impacts for the FRR.

4.9 Hazardous and Contaminated Material page 119-130

Missing information: Table 4.9-1 has sites listed for the Freight Rail Reroute section. Diagram 4.9-3 to 4.9-5 has the FRR located on the diagram but the sites are not diagrammed as expected. It is not possible to evaluate the impacts of hazardous material without knowing where the sites are located. Therefore, it is not possible to comment effectively

Missing information: Page 4-127. There is a brief description of the Golden Auto Site. The comments by Canadian Pacific during the MN&S Freight Rail EAW should be considered: Due to the possibility of disturbing contaminants at the Golden Auto National Lead Site, it is unlikely that CP would be interested in taking responsibility for construction or ownership of the new connection between the Bass Lake Spur and the MN&S. The City Of St Louis Park also documented concerns on this site in their appeal to the EAW: The proposed interconnect structure will be constructed between city maintained wells near the Golden Auto site that may be impacted by construction or vibration (Supporting data B, page 20).

Missing information: Highway 7 and Wooddale Ave Vapor Intrusion site is located on the Freight Rail Reroute section. The SWLRT DEIS does not describe this MPCA, EPA site in the Hazardous Material section or analyze how the introduction of longer, heavier trains with increased vibration will impact the pollution potential.

Improper Analysis: Table 4.9-6 lists Short Term Construction Costs of Hazmat/Contaminated Sites. It is improper for the cost of the FRR to be added to alternative 3C-1, 3C-2. Both of these routes have the LRT traveling in the Midtown Corridor which makes it possible for the freight to remain in the Kenilworth Corridor.

Missing information: The SWLRT DEIS fails to analyze the long term costs. In detail, the long term expense of building the Bass Lake Spur to MN&S Spur connection on contaminated soil or the Golden Auto National Lead site.

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed re-route prior to making decisions.

CHAPTER 5 - ECONOMIC EFFECTS:

5.0 Economic Effects:

On September 2, 2011 the FTA mandated that the proposed freight rail reroute from the Bass Lake Spur to the MN&S Spur must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1)

Because of this mandate addition of the proposed re-route must be included in the “study area” in a regular and consistent basis. Unfortunately, the inclusion of the proposed reroute in the analysis of this section is inconsistent. The inconsistency of the inclusion of the proposed re-route leads to inconsistent and incorrect conclusion about the cost of the SWLRT.

5.1 - Economic Conditions

Section 5.1 does not present any analysis, it is just cheerleading. Broad generalizations are made without substantiation. Terms such as “study area, market reaction and earning and output” are used, but the study area is not defined, which market is reacting is unclear and how earnings and output are determined is not explained (5-1).

In the last paragraph of this section the names of the resources used to determine output, earning and employment are given, but no links are supplied for reference. Furthermore, not only does the source used for the analysis of multipliers is the 1997 Benchmark Input-Output Table, not have a link, but it will also be over 20 years old by the time the SWLRT is complete (5-2). It seems irresponsible to base the cost of a multi-billion dollar project on decades old data.

Without links or data tables in the Appendix of the SWLRT-DEIS it is difficult if not impossible for the average resident to make substantive comments about the data tables in this sections. Due to the November 26, 2012 revelation (Correction Letter from HDR and updated table Safe in the Park - Chapter 5 Appendix – Document 2) about “typos” the need for reference materials is all the more important.

5.1.1 - Output, Earnings and Employment Effects from Capital expenditures

Capital cost estimates/constructions values are presented in year of expenditure (YOE) dollars. However, the year actually used for analysis in this document is not shared. Also, the YOE must change since the construction of the SWLRT will cover more than one year. Without hard data and a moving YOE substantive comment is impossible creating an analysis that is opaque and not transparent.

Table 5.1-1 - Summary of Capital Cost (in YOE dollars) by Build Alternative

The re-routing of freight trains from one area to another is not unique to St. Louis Park. Train rerouting has occurred throughout the United States, Canada and Western Europe. Multiple studies about the impacts of such re-routes exist. One item that consistently appears in all the studies (Property Valuation Articles and summary - Safety in the Park - Chapter 5 Appendix – Documents 3-8) is the negative impact of the re-routed freight trains on the community that is forced to accept the trains. Although the negative impacts on small business and the loss of property value in these cases can't be called a capital cost, the negative impacts are costs nonetheless.

Because the table 5.1-1 does not include the loss of property value and loss of small business revenue in the re-route area of LRT 3A (LPA - Re-Route) the true cost of LRT 3A (LPA- Re-Route) route and how it compares to the other LPA routes is not known (5-3).

5.1.1.2 Funding Sources

As with section 5.1 the names of the reference sources are given, but no links or actual data tables are provided. This lack of information puts the average resident who does not have a paid staff to help with their SWLT-DEIS comment at a disadvantage. Despite or perhaps because of the disadvantage, questions about the conclusions arise and are as follows:

- Final demand earnings--Are these earnings adjusted or disappear if a construction company or engineering firm from outside the Minneapolis—St.Paul-Bloomington Metropolitan Statistical Area (MSA) is chosen?
- The state participation dollars are considered “new” dollars, but the MSA is the biggest funding source for the state, so are they truly “new” dollars?
- When the number of jobs and earnings are calculated are the jobs lost to business takes or floundering small businesses in the study area figured into the final numbers?

5.2.1 Land Use

5.2.1.3 - It is unclear from the text of this section if the land use in the re-route area along the MN&S is included in the percentages given. If not, why not?

5.2.2 and 5.2.3 Short Term Effects and Mitigation

Although the titles of Table 5.2-2 and 5.2-3 include the words “Station Area” the text of 5.2.2 and 5.2.3 state that the tables will explain the short term effects and needed mitigation for the entire alignment of each LRT route (5-4 and 5-5). The text in each table also refers to the entire alignment of the LRT routes with the exception of the LRT 3A (LPA-reroute.) Because the MN&S Spur area is part of the LRT 3A (LPA-re-route) alignment it must be included in the analysis of the short term effects and needed mitigation . If the re-route portion of the LRT 3A (LPA-reroute) is not included in the analysis, the conclusion drawn will be incorrect.

The re-route of LRT 3A (LPA-re-route) appear to have been left out of the tables 5.2-2 and 5.2-3. Below are comments about short term effects and mitigation that need to be added to LRT 3A (LPA re-route) so it can be compared equally to the other LRT routes.

Table 5.5-2 - Short Term Effects

- Environmental Metric: Access Circulation - LRT 3A (LPA-reroute) **High**
 - Potential impacts to the CP along the MN&S Spur during construction of the new tracks eight feet east of the current track alignment. During regular track maintenance during the summer of 2012 there were anomalies in rail service.
 - Potential to impact access to homeowners whose properties are adjacent to the MN&S.
- Environmental Metric: Traffic - LRT 3A (LPA reroute) **Medium-High**
 - During construction temporary closures of at-grade crossings. Depending on the crossing that are closed and the duration of the closings there could be impacts to small businesses and access by emergency vehicles to homes.
 - The building of the new rail bridge over TH 7 will cause service interruptions to the CP. The rail companies commented in the EAW about service delays that could be a month or more during MN&S track reconstruction.
http://www.mnsrailstudy.org/key_documents

Table 5.2.3 - Mitigation

- Proposed Mitigation for Short-term Effects - LRT 3A (LPA-re-route) - Besides listed construction mitigation will the CP need a temporary bridge over TH7 or temporary trackage while a new berm is built and new trackage laid?

5.2.4 Long-Term Effects

Although the title of Table 5.2-4 includes the words “Station Area” the text of 5.2.4 states that the table will explain the long effects and needed mitigation for the entire alignment of each LRT route (5-8). The text in the table also refers to the entire alignment of the LRT routes with the exception of the LRT 3A(LPA reroute.) Because the MN&S Spur area is part of the LRT 3A (LPA reroute) alignment it must be included in the analysis of the long-term effects. If the re-route portion of the LRT 3A (LPA-reroute) is not included in the analysis, the conclusion drawn will be incorrect.

Table 5.2-4 - Long Term Effects - Environmental Metrics

- Environmental Metric: Consistency with Land Use Plans
 - LRT 3A (LPA - re-route)
 - Inconsistent with city vision which does not mention as desire for the freight rail to be moved from the Bass Lake Spur to the MN&S Spur
http://www.stlouispark.org/vision-st-louis-park/about-vision-st-louis-park.html?zoom_highlight=vision
 - Multiple St. Louis Park City resolutions that state the re-routing of freight is unacceptable (1996--City of St. Louis Park Resolution - 96-73 (Safety in the Park Chapter 1 Appendix- Document 1) 2001 City of St. Louis Park Resolution - 01-120 (Safety in the Park Chapter 1 Appendix – Document 2) 2010 City of St. Louis Park Resolution - 10-070
http://www.stlouispark.org/webfiles/file/freight_rail.pdf 2011 City of St. Louis Park Resolution 11-058
http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf)
 - LRT 3A-1 (LPA - Co-location)
 - The Minneapolis and Hennepin County Land Use plans do not predate the St. Louis Park City resolutions rejecting the freight rail reroute.
 - SEH Plan safer and less costly than Re-route
(http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf.)
 - Issues with transit-oriented development are surmountable. The Cleveland trains pages 41 to 43 in the common corridors document clearly demonstrates feasibility and safety of running lrt and freight at grade, at high speeds, and without safety fences. Nearly 50 years without incident in this co-location corridor
<http://www.fra.dot.gov/downloads/research/ord0316.pdf>

- Environmental Metric: Displacement Parking/Access Regulations
 - LRT 3A (LPA - re-route)
 - Small Businesses in the re-route area are likely to experience negative impacts caused by blocked intersections, noise and vibration due to re-routed freight trains
 - Schools in the re-route area are likely to experience access issues due to longer more frequent freight trains
 - LRT 3A-1 (LPA - Co-location) - Access issues in the co-location area are similar to the access issues faced at Blake Rd. and on the proposed Bottineau Line. All are surmountable.

- Environmental Metric: Developmental Potential
 - LRT 3A (LPA - re-route) -
 - Potential development for Lake Street small businesses will be negatively impacted
 - Potential for homeowners to take part in St. Louis Park City Plans to upgrade their homes will be impacted by the negative implications of increased freight traffic on property values
(<http://www.stlouispark.org/remodeling-incentives.html>)
 - LRT 3A-1 (LPA - Co-location) - No changes needed to text

5.2.5 Mitigation

The statement in section 5.2.5.3 “All Build Alternatives are anticipated to have some degree of positive effect on development potential for the local community and region. No mitigation is required” (5-22) might be true for the alignment areas near the SWLRT, but it is completely untrue about the alignment portion of LRT 3A (LPA - re-route) that includes the re-route. There are no benefits from the SWLRT that are great enough to override the negative impacts of the re-route.

CHAPTER 6 - TRANSPORTATION EFFECTS:

Section 6.2 Effects on Roadways

Table 6.2-1 lists all of the Build Alternatives which all include the FRR with the exception of 3A-1. All of these alternatives should be re-evaluated to determine whether the re-route is necessary or that extended co-location of light rail and freight rail can continue east of the MNS crossing.

6.2.2 Long-Term Effects

6.2.2.2 Physical Modifications to Existing Roadways

Missing are modifications for the Freight Rail Re-Route at grade crossings. No evaluation for circulation patterns for the proposed closing of 29th street. Evaluation of impacts of the proposed Whistle Quiet Zones at the MNS/Library Lane/Lake Street intersection and Dakota Ave are also missing. This section requires further study.

6.2.2.3 Operational Impacts at Intersections

According to the criteria for selecting crossings for evaluation, the second criteria is *“Intersections where a signal, roundabout, or stop sign controlling the roadway crossing the tracks was located within 600 feet of the LRT crossing.”* MNS crossings at Walker Street, Library Lane, and Dakota all fall into this category and require LOS analysis. Additionally it should be noted that the Lake Street crossing lies within 600 feet of State Highway 7. A more thorough evaluation of the roadways in the vicinity of the MN&S tracks is clearly required. Cedar Lake Road???

Missing are factors for growth both for vehicle traffic and freight train traffic with regard to traffic impacts on the Freight Rail Re-route on the MN&S track at-grade crossings.

On page 6-38, in the queuing analysis for the freight rail re-route, the analysis of traffic delays refer to the afternoon school bus crossing at Library lane/Lake St. The delay was stated to be 3-4 minutes and involved queuing of 2 to 6 vehicles. We conducted our own traffic count over the course of three days this fall and made the following observation:

	DEIS Survey	Tue, 12/4/12	Wed, 12/5/12	Thu, 12/6/12
Blockage Time mm:ss)	03:00-04:00	02:01	02:09	02:18
Eastbound Lake St	6	9	6	10
Westbound Lake St	2	11	8	9
Southbound Library Ln	4	3	2	1

A brief interview with the police officer who routinely conducted the traffic stoppage stated that the traffic we observed was typical and that occasionally the eastbound Lake St. traffic backs up past Walker St. Extrapolating our counts using the train blockage times listed in the DEIS for the FRR we calculate queues greater than 120 cars (12.5 minutes worst case scenario) may be possible. The discrepancy noted in these observations warrant further study using accurate measurement tools and growth factors for both the vehicle and freight train traffic.

The evaluation using the school bus scenario explained on page 6-38 also completely misses the opportunity to analyze the effect a 12.5 minute delay would have on the afternoon school bus traffic between PSI and the High School. Delays of this magnitude would severely delay and complicate the scheduled bus movements for the rest of the afternoon. A thorough evaluation of both the morning and afternoon school bus traffic is needed to fully determine the impacts to the schools and community.

On page 6-39 during the analysis of Segment A of 3A-1 Alternative a 20 year growth factor of 1.12 were applied to the vehicle counts. This is not comparable to the method used on the FRR segment.

Section 6.2.4 Mitigation

The DEIS suggest the addition of street signage warning motorists of an approaching train to grade separated crossings. The plural on crossings is interesting because to our knowledge no additional grade separated crossings on the MN&S are proposed so only the current Minnetonka Blvd crossing would apply. The placement of these signs would be problematic in that they would need to be far from the affected sites in some cases and have no direct bearing on the local situation. For example, signs indicating train traffic for westbound Lake St traffic would need to be located at Hwy 100 in order to re-direct them onto Minnetonka Blvd. These signs would also have the unintended consequence of putting drivers unfamiliar with the neighborhood on local streets.

6.3 Effects on Other Transportation Facilities and Services

6.3.1 Existing Facilities

6.3.1.2 Freight Rail Operations

This section has a discussion of the current freight traffic on the four active rail lines in the study area. Due to the longevity of the decision being made regarding freight rail traffic, any evaluation that does not include predicted future growth of freight and /or commuter rail operations on both the MN&S and Kenilworth configurations seems very short sighted.

Section 6.3.1.4 Bicycle and Pedestrian Facilities

The bicycle and pedestrian trails are referred to as “interim-use trails.” Alignments of the LRT and Freight rail tracks in the Kenilworth corridor should be considered with additional co-located configurations and alternate locations of the bicycle and pedestrian trails.

6.3.2 Long-Term Effects

6.3.2.2, Freight Rail Operations

Discussion of the freight rail track bed in the Bass Lake Spur corridor for the co-location alternative fails to recognize that these improvements would be necessary regardless of which alternative is used. Unless a southern interconnect to the MN&S is built and the Skunk Hollow switching wye is removed these tracks will be necessary to facilitate the use of the wye. This would include the bridge over Hwy 100. This cost must be included in the estimates for either the 3A or the 3A-1 alternatives.

CHAPTER 7 - SECTION 4(f) EVALUATION:

7.0 Section 4(f) Evaluation

Chapter 7.0 of the SWLRT DEIS includes an analysis of the potential use of federally protected properties for the various proposed routes of the project. This response specifically relates to Section 4(f) impacts to routes 3-A (LPA) and 3A-1 (co-location); the remaining routes are not included as a part of this comment. The comment is organized by route, using 3A as a basis for comparison. This comment surfaces omissions, inconsistencies, and route alternatives not included in the DEIS, but that must be addressed in further analysis by the design team and included in the subsequent FEIS.

Before analyzing and comparing Section 4(f) impacts to routes 3A and 3A-1, it is important to make clear that the bike and pedestrian trails currently within the HCRRA ROW are not protected via Section 4(f) rules and guidelines as stated in Section 7.4 on page 7-6 of the DEIS: *“ The existing trails adjacent to Segments 1, 4, A and a portion of Segments C (the Cedar Lake LRT Regional Trail, Minnesota River Bluffs LRT Regional Trail, Kenilworth Trail, and Midtown Greenway) were all constructed on HCRAA property under temporary agreements between the HCRRA and the trail permittees. As documented in each trail’s interim use agreement, HCRRA permitted these trails as temporary uses with the stipulation that they may be used until HCRRA develops the corridor for a LRT system or other permitted transportation use. Therefore these trails are not subject to protection as Section 4(f) property “.*

Route 3A

Table 7.4-1 of the DEIS states that 0.00 acres of section 4(f) property is affected in Section A of the proposed route. The DEIS also states that a historic channel between Brownie Lake and Cedar Lakes may be affected by construction of this route. A calculation of the affected area is not included in Table 7.4-1, and it is not mentioned whether this affected area is considered a permanent or temporary use. This is an omission from the DEIS and an inconsistency between analysis and comparison of routes 3A and 3A-1. For contrast, the analysis of Route 3A-1 includes very detailed Section 4(f) area calculations, down to the hundredth of an acre, for bridge and other related construction at both Cedar Lake Parkway and Lake of the Isles. A revised DEIS or FEIS must address this omission and inconsistency by providing a calculation of the area impacted at the historic channel between Brownie Lake and Cedar Lake.

Section 7.4.1.4, page 7-20 of the DEIS explicitly states that land ownership along the segment from downtown Minneapolis to Cedar Lake Park is complicated and may need additional survey or a detailed title search to determine ownership of the underlying land . This is another omission. The U.S. Department of Transportation Federal Highway Administration's Office of Planning, Environment, and Realty Project Development and Environmental Review Section 4(f) Policy Paper dated July 2012, section 3.2, page 7 states:

"In making any finding of use involving Section 4(f) properties, it is necessary to have up to date right-of-way information and clearly defined property boundaries for the Section 4(f) properties. For publicly owned parks, recreation areas, and refuges, the boundary of the Section 4(f) resource is generally determined by the property ownership boundary. Up-to-date right-of-way records are needed to ensure that the ownership boundaries are accurately documented."

Without up-to-date property records and boundaries, an accurate representation of Section 4(f) property cannot be stated. The admitted complexity of property boundaries and incomplete understanding of these boundaries shall be rectified by including additional survey and title searches in a revised DEIS or the FEIS to provide a more accurate and transparent representation of Section 4(f) property impact for route 3A.

Table 7.4-1 of the DEIS states that 0.227 acres of Section 4(f) property within the Nine Mile Creek area is necessary for construction of route 3A. According to Chapter 7, Section 7.4.1.4, page 7-20 of the DEIS, the 0.227 acres of Section 4(f) area required for construction of route 3A is considered *de minimus*. This is an important figure as it sets precedent for analysis of the other routes considered for the project. These 0.227 acres of area shall be used as a basis for determining the *de minimus* quantity of Section 4(f) property for the remaining routes considered for this project. Taking this basis into consideration, the Section 4(f) property uses at Lake of the Isles of 0.01 acres, and at Cedar Lake Parkway of 0.07 acres (a total of 0.08 acres) for Route 3A-1 thus become immaterial or *de minimus*. Therefore the only material point of contention in discussing Section 4(f) property uses between routes 3A and 3A-1 is the 0.81 acres of Minneapolis Park Board property listed in the DEIS Table 7.4-1.

Route 3A-1

Taking into consideration the points made above regarding *de minimus* quantities of Section 4(f) property, the Section 4(f) uses at Cedar Lake Parkway and Lake of the Isles are negligible; the remaining 0.81 acres of Section 4(f) property use (Minneapolis Park Board property) is the only material quantity of land that should be analyzed for route 3A-1.

Section 7.4.1.5 of the DEIS discusses conceptual engineering as follows:

“Segment A of LRT 3A-1 (co-location alternative), which would co-locate freight rail, light rail and the commuter trail within this segment would necessitate additional expansion of ROW outside of the HCRRA-owned parcels into adjacent parkland. Section 4(f) uses could occur for the Cedar Lake Park, Cedar Lake Parkway and Lake of the Isles portions of the Minneapolis Chain of Lakes Regional Park for reconstruction of existing bridges, construction of new LRT tracks and realignment of the existing freight rail tracks. The conceptual engineering complete to date for the project identifies approximately 0.81 acres of permanent use of Cedar Lake Park for the location of the reconstruction of the freight rail track.”

The DEIS then contradicts the above statement, two sentences later, with this statement:

“Construction limits have not been determined for the co-location segment, but it is likely that additional temporary uses of parkland will occur.”

Without determining construction limits for the co-location segment, it is unclear how the figure 0.81 acres of Section 4(f) parkland use was calculated. The DEIS calls out this 0.81 acres of use, but it does not clearly delineate the boundaries of the park property that must be used. The only representation of the 0.81 acres is shown in a visual aid - Figure 7.4-6, page 7-16. From this graphic, it appears that the Section 4(f) use would occur in Section A of the route between the proposed 21st Street and Penn Avenue Station. The graphic only contains visual representations of where park land use may be required. No detailed engineering drawings containing plan views of construction limits or cross-sections are provided to demonstrate the required use of park land for route 3A-1. This is a critical omission from the DEIS; a revised DEIS or FEIS must clearly show the limits of construction causing the required use of Section 4(f) property within section A of this project. If the delineation of construction limits demonstrates that use of Section 4(f) park property is in fact required for Route 3A-1, alternative permutations of this same route must be given consideration as viable alternatives as outlined in the 1966 FHA Section 4(f) documents. Just because one configuration of route 3A-1 requires park land, does not imply that other configurations of the same route would also require temporary or permanent park land use. Alternative configurations of route 3A-1 that eliminate or minimize Section 4(f) property uses must be included in a revised DEIS or FEIS. From this point forward, this comment will focus on the portion of the project between Burnham Road and the proposed Penn Avenue station, as this is the area that the DEIS states Section 4(f) park land is required for construction of the project.

Again, a thorough representation of property boundaries and ownership along section A of routes 3A and 3A-1 is not included within the DEIS. The DEIS explicitly states this in Section 7.4.1.4, page 7-20 "Land ownership along section A is complicated and may need additional survey information to accurately represent property boundaries, etc..." Appendix 7A shows Hennepin County property boundaries and a representation that the existing freight rail tracks in the Kenilworth Corridor appear to be on Cedar Lake Park property. Appendix 7 C also shows how skewed the Hennepin County property boundaries are depicted in conceptual engineering drawings. Hennepin County produced a memorandum attempting to address the issue. The document is in Appendix H,, Part 1, page 50 of the DEIS. It is titled "Technical Memorandum" by Katie Walker, dated March 23, 2012. This memorandum outlines a problem with Hennepin County parcel data, and very generally dismisses the property boundary issues, additionally stating that the existing freight tracks through the Kenilworth Corridor are on HCRRA property and that survey quality data will be provided during preliminary and final design stages. This is not acceptable. Without accurate survey drawings the Section 4(f) analysis has absolutely no factual survey basis to stand on, rendering the analysis useless and arguably laughable. This is a major omission from the DEIS and project as a whole; accurate definition of property boundaries and ownership is a fundamental and absolutely essential piece of due diligence required for sound planning and design of any land development project.

Taking the above points into consideration and upon further investigation of property boundaries and ownership along Section A of route 3A-1, it is apparent that more property, and subsequently, various permutations of route 3A-1 are available for consideration in eliminating or minimizing Section 4(f) property use. Hennepin County property records show a ROW corridor owned by HCRRA where proposed LRT and trails would be located together. This corridor is generally 50 feet in width. If this corridor is considered as the only property available for construction of LRT, Freight Rail, Pedestrian and Bike trails, it is apparent that there is not enough width to accommodate all of these uses. A blatant and obvious omission from the analysis is the property directly adjacent to the east of this ROW corridors is owned by HCRRA and provides an additional 100 feet to 200+ feet of width to the corridor adjacent to Cedar Lake Park. The DEIS does state on page 7-21 that: "The majority of the land along Segment A through the Kenilworth Corridor by Cedar Lake Parkway belongs to the HCRRA. The additional parcels of property adjacent to the project corridor, owned by HCRRA, and that could be considered for additional configurations of route 3A-1 are recorded in Hennepin County property records and displayed on Hennepin County Property Records website. The parcels that must be included in additional configurations of route 3A-1 include PID 2902904410044, PID 3202924120046, PID 3202924120045, PID 3202924120005, and PID 320292413001. Please see Appendix 7 B for visual representations of these parcels in relation to Cedar Lake Park and the existing HCRRA ROW.

In summary the DEIS calls out 0.81 acres of Section 4(f) property as required for Co-location. This simply is not necessary. As outlined above and shown in appendix 7 of this DEIS comment document there is plenty of width from 21st St to Penn avenue to accommodate lrt, freight, and trails without using any parkland whatsoever. This is a major omission from the DEIS, and a blatant misrepresentation of facts that must be addressed in a revised DEIS or FEIS. With this said, use of Section 4(f) property becomes a non-issue for co-location, and this should be stated as such in the DEIS. Please see appendix 7 D for a discussion of legal aspects of Section 4(f) analysis as it relates to this project. A St. Louis Park resident, Mark Berg, discusses legal ramifications of Section 4(f) analysis on co-location of SWLRT and freight rail. Please consider his written letter as a companion document to this DEIS response. The analysis above combined with the legal aspects discussed by Mr. Berg demonstrate that the DEIS's 4(f) analysis is flawed and a new analysis must be undertaken by the project to rectify omissions, misrepresentation of facts, and ambiguities related to property boundaries, proposed project boundaries and overall section 4(f) property use.

CHAPTER 8 - FINANCIAL ANALYSIS:

8.0 - Financial Analysis

In September of 2011 the FTA mandated that the proposed freight rail reroute from the Bass Lake Spur to the MN&S Spur must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1) Because of this mandate addition of the proposed re-route must be included in the “study area” in a regular and consistent basis. Unfortunately, the inclusion of the proposed reroute in the analysis of this section is inconsistent. The inconsistency of the inclusion of the proposed re-route leads to inconsistent and incorrect conclusion about the cost of the SWLRT.

In section 8.1.2 methodology a list of the resources used to determine the cost of the SWLRT project are given. No links or data tables are actually shared in the SWLRT-DEIS (8.1).

Without links or data tables in the Appendix of the SWLRT-DEIS it is difficult if not impossible for the average resident to make substantive comments about the data tables and information in this section. Due to the November 26, 2012 revelation (Correction Letter from HDR and updated table Safe in the Park - Chapter 5 Appendix – Document 2) about “typos” the need for reference materials is all the more important. In fact, the errors in this section coupled with the misrepresentations, inconsistencies, omitted information and other mistakes, bring the validity of the entire SWLRT-DEIS into question.

Are there any other “typos” in the DEIS? Claiming a \$100,000,000 “typo” conveniently narrows (but does not eliminate) the cost disadvantage of the HCRRA’s favored LRT 3A (LPA- Re-route) relative to the less expensive LRT 3A-1(LPA - co-location). How will the additional \$100,000,000 cost of the project be funded? The HCRRA’s “Corrected Table 8.1-1” shows the additional \$100,000,000 in “Professional Services”. (8-2) Presumably the numbers in Table 8.1-1 come from spreadsheets, and where in the supporting spreadsheets did the error occur? Were the underestimated Professional Services costs in civil engineering, or public relations or project accounting? Who entered the wrong number and how is the public to know that the numbers are now correct?

Table 8.1-1 - Cost estimate for build alternatives.

The re-routing of freight trains from one area to another is not unique to St. Louis Park. Train rerouting has occurred throughout the United States, Canada and Western Europe. Multiple studies about the impacts of such re-routes exist. One item that consistently appears in all the studies (Property Valuation Articles and summary - Safety in the Park - Chapter 5 Appendix – Documents 3-8) is the negative impact of the re-routed freight trains on the community that is forced to accept the trains. Although the negative impacts on small business and the loss of property value in these cases can’t be called a capital cost, the negative impacts are costs nonetheless. Furthermore, the slim cost margin between re-route and co-location seems inconsistent with the amount of building needed in each alignment.

Section 8.1.4.1: Federal Section 5309 New Starts. This section states, “The local project partners have assumed that the Southwest Transitway will be funded 50 percent with New Starts funding” (8-3). Justification for this assumption is not provided and a different assumption could just as easily be made that would fundamentally change the cost/benefits outcome of the project.

Section 8.1.4.4: Regional Railroad Authorities. As noted in this section, Regional Railroad Authorities exist “...for the specific purpose of providing for the planning, preservation, and improvement of rail service including passenger rail service and to provide for the preservation of abandoned rail right-of-way for future transportation uses” (8-4). (Contrary to this purpose, re-routing freight trains from the Kenilworth Corridor would sacrifice a relatively straight, flat, direct and efficient railroad route in order to preserve a bike path. If the purpose of “preservation of abandoned rail right-of-way for future transportation uses” had occurred as intended, the land for townhouses at the “pinch point” would never have been sold. HCRRA is not fulfilling the purpose for which it was intended.

8.2 - Operating Funding Strategy

Section 8.2.1: Operating and Maintenance Costs. This section states, “No freight rail operating and maintenance costs will be attributed to the project because HCRRA has no obligation to the freight railroads operating in the study area to reimburse either operating or maintenance costs” (8-5). The TC&W stated publicly during the PMT process that it would cost more for it to operate its trains along the re-route than on their present route through the Kenilworth Corridor and that it needed to have “economic equilibrium” before agreeing to the re-route. As made clear by Section 8.2.1, there is no provision in the DEIS to provide “economic equilibrium” to the TC&W. Leaving a critical stakeholder’s needs unaddressed undermines the credibility of the DEIS. The HCRRA joins the TC&W and the CP in explicitly renouncing responsibility for maintenance of the new MN&S interconnects that would be necessitated by the re-route, leaving this ongoing economic requirement to become an open sore for future county/railroad relations. (http://www.mnsrailstudy.org/key_documents)

Section 8.2.2: Bus O&M Costs. This section states that bus operating and maintenance (O&M) costs vary with the level of service provided, and that, “Fixed costs do not change with the level of service...” while the same paragraph also states. “Therefore, the fixed costs are 20 percent of the total (O&M costs)” (8-5). However, if O&M costs vary with activity levels and fixed costs are 20 percent of total bus O&M costs, the fixed costs are not really fixed and may be understated in the DEIS.

Section 8.2.3: Light Rail Transit Operations and Maintenance Costs. This section states, "Variable costs of LRT are assumed to be 86 percent of the total cost with the fixed cost being 14 percent of the total" (8-5). Left unexplained is what items are included in fixed cost for LRT and why fixed costs for LRT are only 14% of total O&M costs when LRT has a much higher level of fixed assets to maintain (track and overhead power lines) than the bus alternative. If fixed costs for the bus alternative are only 20% of O&M and fixed costs for LRT are 16% of O&M, the ongoing fixed costs of maintaining the larger capital base required for LRT may be understated by the DEIS.

Table 8.2-3 . "system O&M costs for building alternatives" shows the cost for LRT 3A (LPA, re-route) and LRT 3A-1 (LPA, co-location) to have exactly the same operating costs. However, LRT 3A (LPA, re-route) needs to include the costs of maintenance for the two interconnects. According to the responses from the CP in the MN&S EAW (http://www.mnsrailstudy.org/key_documents), they have declined to be responsible to maintain the interconnect (8-7). Therefore, the cost of maintenance must fall on the SWLRT and be represented in the cost table.

Section 8.2.5.1: Fare Revenues. This section states, "Ridership i anticipated to grow along with increasing population and employment" (8-7 & 8-8). Unacknowledged in the DEIS is the growth of telecommuting which might reduce demand for transit in the future, leaving the SWLRT as underused as the Northstar commuter line.

The DEIS states, "In 2011, 26 percent of the total MVST (Motor Vehicle Sales Tax) revenues were dedicated to transit needs in the Twin Cities metropolitan area" (8-8). This percentage could go up or down in the future but without explaining why, the numbers in Table 8.2-4 show the percentage increasing to 26.47% in 2012 and the following years, a higher percentage than 21.7% to 26% range observed since 2009 (8-8). Left unexplained is which part of Minnesota will give up some of its share of MVST revenues to provide more to the metropolitan area.

Section 8.2.5.2: CTIB Operating Funding. As described in this section, the Counties Transit Improvement Board has agreed to provide a percentage of the operating assistance required for the SWLRT and other light rail projects as well as the Northstar commuter line (8-8). If Northstar continues to miss its budget targets how will CTIB continue to subsidize the SWLRT?

Section 8.2.5.5: State General Funding. This section states, "State funding for transit operations has grown over recent biennia" (8-9). The numbers provided show that state funding declined 32.45% in the most recent biennium and funding declined in two of the last four biennia. The DEIS takes an optimistic case for continued state funding.

Section 8.3: Strategy for Potential Funding Shortfalls. It is asserted in this section that, “Short term shortfalls are covered by the operating reserves. In the longer term, Metro Transit relies on the MVST growth and its fare policy.” “The MVST revenues are projected to increase at a rate of 4.6 percent per year in the long run. This forecast is viewed as conservative for financial planning purposes as historical trended MVST receipts for the period of 1973 to 2008 averaged 5.7 percent” (8-9, 8-10). Assuming the above percentages indicate real growth rather than inflation-based growth, the 1973 to 2008 growth was calculated from a recession year to a year at the end of a financial bubble that may have artificially exaggerated growth. Normalized long-term growth in U.S. Gross Domestic Product is generally forecast in the 2% to 3% range, and Minnesota’s gross domestic product is likely to be in the same range, but if MVST receipts increase at a faster 4.6 percent rate over the long term, eventually 100% of Minnesota’s gross domestic product will be collected in MVST, an arithmetically unlikely outcome rendering the DEIS’ long-term operating funding projections questionable.

Another source of operating funding noted in this section is higher fares, which admittedly reduce ridership. The DEIS states, “The state’s commitment to transit in the Metro region may be regarded as an opportunity of financial risk management for operations” (8-10) which might be rephrased, “maybe they will bail us out.” Also mentioned as sources of supplemental operating funding are “non-farebox revenue sources” which raises the question of why these potential sources haven’t been previously developed.

CHAPTER 9 - INDIRECT EFFECTS AND CUMULATIVE IMPACTS:

As stated in the comment for Chapter 1 of this SWLRT-DEIS response the essential purpose of the National Environmental Protection Act (NEPA) is to ensure that environmental factors are weighted equally before an infrastructure project can be undertaken by a federal agency. The extent to which this SWLRT-DEIS does not fulfill the essential purpose of NEPA is particularly evident as the indirect and cumulative impacts of the SWLRT are discussed.

In September of 2011 the FTA mandated that the proposed freight rail reroute from the Bass Lake Spur to the MN&S Spur must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1). Because of this mandate addition of the proposed re-route must be included in the “study area” in a regular and consistent basis. Unfortunately, the inclusion of the proposed reroute in the analysis of this section is inconsistent. The inconsistency of the inclusion of the proposed re-route leads to inconsistent and incorrect conclusion about the cost of the SWLRT.

In sections **9.1- 9.2** The methods used and criteria of indirect and cumulative impacts are defined. Section 9.1.12 - states that “ Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time” [40 C.F.R. § 1508.7] (9-1). On the next page of the SWLRT-DEIS section 9.2.2 states “Build Alternative and other actions, including past, present, and future, were identified and added to the direct effects of each alternative (as presented in Chapters 3, 4, 5, 6, and 7 of this Draft EIS) to arrive at the total potential cumulative impact” (9-2). What is left out of these sections is the fact that the re-route area of the SWLRT-DEIS has never been evaluated in respect to 40 C.F.R. § 1508.7 and that in Chapters 3, 4, 5, 6 and 7 of this DEIS the direct impacts of the re-route portion were not evaluated in a good faith effort.

9.2.3 Study Area Definition

Section 9.2.3.1 defines the area “½ mile around the station areas” (9-3) as the area for indirect impact while section 9.2.3.2 defines the cumulative impact area as the area “about one mile on each side of the Build Alternatives’ alignments” (9-3, 9-4). This is true for all of the SWLRT build options except for the MN&S re-route area. Despite being an official part of the SWLRT project, the area “about one mile on each side” of the MN&S re-route area has been left out the evaluation of cumulative impacts. An argument can actually be made that not only should the MN&S re-route track area of study be a one mile radius, but in fact because the weight, vibration, noise, and other factors are greater for freight trains than light rail trains, an even broader area should be studied for the freight re-route area.

It must be pointed out that although segment A is part of the 3A(LPA - Re-route) the area from approximately Penn Station east to Downtown Minneapolis has not been included in the discussion of the re-route. However, that same area is considered part of the co-location discussion of 3A-1(LPA-Co-Location). This is thoroughly discussed in Chapter Two comments of this document.

9.3 - Existing Conditions and Development Trends

There are so many vague assertions in this section that it is difficult if not impossible for the average resident of Hennepin County to substantively comment on this section . It is asserted that the economy of the Southwest metro is vibrant and growing, but in Chapter one of this DEIS document errors were found in regard to the number of jobs near the SWLRT alignment. It stated that the information comes from the October 2008 Market assessment (9-4). However, using the search bar on this DEIS and a close scrutiny of Appendix H, it is impossible to find the 2008 Market assessment or the data about population, household, and employment as it relates to the re-route portion of the 3A (LPA-re-route)

The existing conditions and the impacts regarding the proposed reroute area were NOT covered in Chapters 3,4,5 and 6 of the SWLRT-DEIS. The conclusions drawn in section 9.3 about the proposed reroute area are at best under represented and at worst completely wrong.

9.4 - Reasonably Foreseeable Future Actions

The proposed new intersection at TH 7 and Louisiana in St. Louis Park seems to be missing. The St. Louis Park City Council voted unanimously on December 3, 2012 to move forward with the project.

9.5 Potential for Indirect Effects and/or Cumulative Impacts

Missing from the SWLRT-DEIS is a comprehensive look at the indirect and/or cumulative impacts on the proposed re-route area. Using the Report done for the City of St. Louis Park by Short, Elliot and Hendricson (SEH) http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf

the responses to the MN&S EAW (http://www.mnsrailstudy.org/key_documents) and the Comments to Chapters 3,4, 5 and 6 from this document, a table detailing the indirect and/cumulative impacts is presented. For purposes of evaluating the indirect and cumulative impacts of the proposed re-route area, we define the area for both indirect and cumulative impacts as the area about one mile on either side of the re-route alignment beginning just east of Minnehaha Creek on the west and the point where the new alignment joins the BNSF near Cedar Lake in the east.

Indirect impacts are the things that can only be qualified, while the cumulative impacts are as defined in section 9.1.12: "Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" [40 C.F.R. § 1508.7] (9-1).

Table 9.5-1. Resources with potential for indirect effects or cumulative impacts

NEPA TOPIC	POSSIBLE INDIRECT IMPACT TO RE-ROUTE AREA	POSSIBLE CUMULATIVE IMPACTS TO RE-ROUTE AREA
Land use and socioeconomics	Yes, Parks will be less attractive as noise and pollution from freight trains increases.	Yes, small businesses in the area will experience difficulty due to traffic conditions
Neighborhoods, community services and community cohesion	Yes, Loss of community pride after FRR is 'forced'. Areas around the MN&S will become blighted as homes suffer from effects of extreme vibration	Yes, Loss of property value will cause higher rate of foreclosure and rental vs ownership rates. Emergency vehicles will have difficulty moving about the re-route area, STEP will be impacted by noise and vibration. Gentrification will become impossible!
Acquisitions and displacements/relocations	Yes, homes will need to be taken to create a safer ROW or if not taken neighborhood blight will occur	Yes, removal of homes or decline in value of homes that are not taken will result in a lower tax base for St. Louis

		Park. Inverse condemnation due to loss of enjoyment from negative impacts.
Visual quality and aesthetics	Yes, garbage stuck in fencing needed to create the supposed whistle free zones will be an eyesore. The interconnect structure will be site for graffiti.	Yes, The interconnect structure needed to accomplish reroute will dwarf everything in the area and change the overall look of the community. Maintenance and upkeep will be neglected because ownership of interconnect is not clear.
Safety and security	Yes, the amount of hazardous material transported will increase with increased track usage. Increase usage will decrease the enjoyment of residential backyards, as this is used as a buffer zone for derailment.	Yes, safety concerns will be a factor in the housing and resale of the residents, leading to increased housing turnover, higher rental percentages. Concerns for students will be a factor in considering school facilities for families as they establish households.
Environmental justice	Yes, Students at St. Louis Park High and Peter Hobart (both schools have significant minority populations) will be impacted.	The FRR will decrease school morale and possibly increase destructive behavior as the community reflects on the significance of forcing the FRR. A 'Rondo' effect.
Air quality	Yes, laboring locomotives will spew diesel fumes, and vehicles on the roadways will spend more time idling while waiting for trains.	Yes. negative impacts to resident health from increase pollution exposure. Property maintenance, upkeep will increase due to the settling of pollution on structures.
Noise	yes, inverse condemnation, loss of property rights as residents can no longer enjoy their backyards. Lack of direct south connection may cause the FRR area to become a defacto switching yard.	Yes, introduction of a direct route will encourage more freight traffic, use of ports and yards will change which allow for more traffic also. Noise level, exposure are not stagnant but should be expected to increase.

Vibration	Yes- increased vibration will impact structure foundations and could increase radon exposure.Lack of direct south connection may cause the FRR area to become a defacto switching yard.	Yes, introduction of a direct route will encourage more freight traffic, use of ports and yards will change which allow for more traffic also. Vibration level, exposure are not stagnant but should be expected to increase.
-----------	---	---

Economic effects	Yes, due to lower property values the tax base of St. Louis Park will no longer be raked as one of the 100 best Cities in America	Yes, a lower tax base due to lower property values will raise taxes on the homes a distance from the tracks and will also result in fewer services for residents.
Station Area Development	No, Most of the re-route area is too far from a station to benefit.	No, Community works dollars will be spent on station areas and the re-route area will be left to flounder
Transit effects	Yes, The MTC bus that crosses the MN&S at Lake Street, Library Lane and Dakota Ave. could experience schedule problems due to trains in crossing.	Yes, because of problems with scheduling the busses could be removed from service leaving people who need the bus and make transfers in uptown or downtown in Minneapolis without transportation
Effects on roadways	Yes, side streets will be difficult to traverse because of queues of cars. Since these queues will be at random times people will not be able to effectively plan their day.	Yes, emergency vehicles will have difficulty traversing the area. People will suffer because of delayed response time. Because people will attempt to avoid the roads in the re-route area as much as possible, traffic on Minnetonka Boulevard will become even more congested.

9.6 Long–Term Effect

This section states that no mitigation is “needed, proposed or anticipated” for the MN&S spur. It is difficult to believe that a 788% increase in the number of rail cars moving on the MN&S spur will need no mitigation, yet that is what is proposed in section 9.6. The section even goes on to say that “Because the indirect effects and cumulative impacts (of SWLRT) are considered desirable and beneficial no mitigation is required. “ The benefits of Light rail will in no way ameliorate the negative impacts done by the re-routed freight. Light rail will not straighten tracks to save neighborhoods from derailments, it won’t decrease noise and vibration or fix any other of the negative impacts caused by increased rail traffic.

As pointed out in the comments to Chapters 3, 4, 5 and 6, the negative impacts from moving freight traffic to the re-route area are extensive but these impacts are unaddressed by the SWLRT-DEIS which simply asserts in section 9.6 that no mitigation is needed for the freight rail re-route area. Should freight be re-routed from a former Chicago to Seattle mainline to tracks that were built to accommodate electric interurban trains, the mitigation needs will be extensive. Lists that include, but are not limited to all of the mitigation that will be needed in the MN&S re-route area, from just east of Minnehaha Creek to the junction of the new BNSF siding with the BNSF main line, can be found in the City of St. Louis Park comments and the SEH report. http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf (SEH document); http://www.mnsrailstudy.org/key_documents EAW Comments. These lists are in no way definitive. No matter how much mitigation is done, the MN&S Spur will always be a retro fitted interurban carrying freight trains that belong on tracks built for mainline rail traffic.

9.7 - Greenhouse Gasses

Increased diesel fumes caused by locomotives laboring up the two steep interconnects, idling for long periods of time, perhaps making multiple trips through the neighborhoods will have a cumulative impact. The area around the MN&S re-route area will become intolerable because of the added pollutants. The community further afield will suffer indirectly because of the increase of smog.

CHAPTER 10 - ENVIRONMENTAL JUSTICE:

Improper Analysis: Section 10.3.1: The same methodology was not used in both identifying census blocks for the five alternatives and the Freight Rail Relocation. It is discussed that a half mile buffer was created but there is a footnote 2 on Page 10-2. The footnote clearly states that the area of impact for the Freight Rail Relocation was geographically narrower to ensure the analysis did not miss a minority population. First, it is poor process and suspect when a project doesn't use equal parameters. Second, it is not logical to state that a narrower impact area would help include more information. A narrower area can only leave a segment with lower impact due to less geographical area. And finally, it should also be considered that Hennepin County did not take serious consideration of the Sept 2011 letter by FTA. The letter requested that the Freight Rail and impacts be a part of the SWLRT. It is suspect that the information used in the SWLRT DEIS for the FRR environmental impacts was pulled from the MN&S Report (Located in Appendix H, Part 1). The MN&S Report is essentially the same information as the Minnesota State MN&S Freight Rail EAW which didn't include a half mile impact buffer because the scope of the state project would only consider adjacent properties. The fact that the area of impact is narrower for the FRR correlates the small scope of the original project.

Improper analysis: Table 10.3.1: The percentage of minority population impacts increases with the Co-Location option. Figure 10.3-2 with the LPA 3A indicates that there are pockets of high minority census blocks along the FRR, with the largest section in the Iron Triangle area of the FRR project. Co-Location would both eliminate these areas and is geographically smaller. Action requested to have the analysis of this percentage increase with co-location explained further.

Improper Analysis: There is a core analytical flaw in figures 10.3 when it describes the FRR and the Co-location area. It is flawed because the effects of segment "A" take into account the area north of Kenilworth corridor even though that area will be affected with or without the FRR. Therefore, this is an improper comparison. The figures should be divided as a.) FRR from the Interconnect structure to the BNSF siding. b.) Co-location section from West Lake to Penn Station area. c.) common area which is north and east of Penn Station to Target Field. Including the common area can only unfairly overestimate the impacts to the co-location segment.

Improper Analysis: It is important to highlight that the FRR segments have areas with high minority population. In comparison, the co-location area in Kennilworth Corridor have none. If the Re-Route section is chosen, the project will have a disproportionate negative impacts to minority in the freight decision- which is concern for the EPA and the principles of environmental justice and fair treatment. It is improper for the conclusion that the re-route is the environmentally preferred alternative for the freight. Maps of the FRR area vs co-location with minority populations (Attachment Appendix 10).

Missing from the environmental impacts for minority and low-income groups is an analysis of the demographics of the St Louis Park schools within half mile: Peter Hobart Elem., St Louis Park Senior High, and Park Spanish Immersion.

'A minority population means any readily identifiable group or groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed or transient persons such as migrant workers or Native Americans who will be similarly affected by a proposed DOT program, policy or activity.' FTA C 4703.1. The population of a school can be accurately described as a geographically dispersed people that gather for the purpose of education. In addition, the school board and each school administration has the liability of protecting and policing students while on campus, similar to the responsibilities of a local government.

School	Population	Percent Minority	High Minority Population Fit ¹	Percent Free and Reduced Meals
St Louis Park School District	4472	38.9%	yes	31.2%
Senior High	1381	38.4%	yes	32.9%
Peter Hobart Elementary	549	43.5%	yes	37.2 %
Park Spanish Immersion	513	26.5%	no	14%

¹ The percentage used to determine high minority population kit was 28.3%, Section 10.3.1.1

Source: slpschools.org- Fall 2012 Enrollment Comparison and Demographic information.
(<http://www.rschooldtoday.com/se3bin/clientgenie.cgi?butName=Fall%202012%20Enrollment%20Comparison%20and%20Demographic%20Information&cld=0&permission=3&username=>)

Missing Information: The percentage of free or reduced meals is significant for the St Louis Park School District, Senior High, and Peter Hobart. it is difficult to determine from the free/reduced meals if there is an impact to low income population because the criteria is not a match. However, this is information that the project should investigate further to prevent improper high impacts.

Improper Analysis: The LPA discusses that the adverse effects on environmental justice populations. The different segments and criteria (construction, transit service and accessibility, air quality, multimodal environment) reach a conclusion that there is no disproportionate high or adverse effects anticipated. This conclusion is improper because the populations of minorities in the community of the FRR segment, school populations minorities, and possible low income students at the schools are not considered. In addition, it is stated the LRT will provide benefits to the environmental population. The Freight Rail Re-Route section of the LPA will have no benefits to the impacted populations, only negative impacts. Therefore, no offset of negative impacts by the LRT benefit. The conclusion of the Environmental Justice for the LPA is incorrect and improper.

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on.

Action requested: Change the scope of the impact areas for the FRR and co-location segments to exclude the area that is north and east of the Penn Station.

Action requested: More weight should be given to the minority areas of the Freight Rail Re-Route because the impacts will be negative with no positive LRT offset.

Action requested: Include the minority and possibly low income populations of the impacted schools in the analysis.

CHAPTER 11 - EVALUATION OF ALTERNATIVES:

On November 29, 2011 Hennepin County Commissioner Gail Dorfman stated, “How do we explain co-location being added without people thinking that co-location is on the table in a serious way, promises were made going a long way back”

http://hennepinmn.granicus.com/MediaPlayer.php?view_id=10&clip_id=1459

Consequently, the comparison done on the proposed reroute of freight from the Bass Lake Spur to the MN&S Spur then from the MN&S to the BNSF Wayzata Subdivision and the co-location of the same freight trains was not done to ensure that the essential purpose of NEPA was fulfilled.

The purpose of this comment and our evaluation of each chapter is to show that the conclusion of the SWLRT-DEIS prepared by the HCRRRA concerning the co-location or re-routing for freight trains is incorrect. We submit that based on our evaluation the conclusion that the re-route is preferable co-location should be re-evaluated.

- The inconsistencies and inaccurate information in Chapter 1 bring into doubt the need for the proposed reroute. The claims that the interconnects are part of the MnDOT State Freight Rail plan are unsubstantiated.
- The lack of public process discussed in Chapter 2 should bring into question the choice of Build Alternative 3A even being considered as an option much less chosen as the LPA
- The evaluations on impacts and indirect and cumulative impacts caused by the proposed reroute discussed in Chapters 3,4,5 , 6 and 9 do not fulfill the the purpose of each chapter.
- Chapters 7 and 10 of the SWLRT-DEIS fail to address the Federally mandated questions.
- The financial chapter 8 not only is suspect because of the “typo” found on November 26, 2012 but also because it does not discuss the ongoing maintenance cost associated with the building of two large pieces of infrastructure.
- The last Chapter 12, as with Chapter 2 spells out the lack of public process and the contempt with which the residents of St. Louis Park have been treated.

The following Table 11.1-1 is based on the table of the same number in the SWLRT-DEIS (11-2 to 11- 7). The information in this chart has been compiled to evaluate and compare the proposed reroute to co-location. The SWLRT-DEIS presents comparison tables for several aspects of the SWLRT but fails to provide a comparison table showing the attributes of the re-route and co-location. Using the table comparison format featured for other purposes in the SWLRT-DEIS, a reroute/co-location comparison table is presented below. Please note that only publicly available information is included in the table below, and that publicly available information does not include specifics of the SWLRT Light Rail alignment. All public documents used in this table are referenced in this SWLRT-DEIS Comment.

Table 11.1-1 Re-route Option/Co-Location Option

Goal and Evaluation Measure	Re-Route Option	Co-location Option
Traffic impacts - queue lengths (in vehicles) at freight rail at-grade crossings	Numbers for the re-route options looked at only one day in time.	Numbers looked at projected growth of area and traffic that impact on queue lengths.
Air Quality impacts	Higher emissions due to laboring diesel freight locomotives.	No change from emissions from diesel freight locomotives
Noise	Extreme increase not only because of increase in the number of trains, but also due to freight locomotive noise caused by steep grades of interconnects. Brake and wheel noise will also increase. Quiet Zone will not stop noise from trains	Noise from Freight trains will remain the same. The only increases in freight will cause by normal market factors.
Vibration	Extreme increase due to a 788% increase in rail cars	No, number of freight trains will remain consistent with current number
Hazardous Regulated materials	High - Potential to encounter more hazardous and regulated materials sites along the MN&S Spur and the BNSF Wayzata Subdivision as well as with the construction of the interconnect at the contaminated Golden site.	
Construction Impacts	High - The building of two interconnects and moving tracks eight feet east above grade in close proximity to homes and businesses will be disruptive	Information in the DEIS is vague on the subject

Community Cohesion	Extreme impact	Impact caused by freight trains will not change, therefore, no impact
Property Acquisitions	At the very least the homes east of the MN&S between West Lake St. and Minnetonka Blvd. must be removed for safety reasons	Townhomes taken in the “pinch point” If they are removed a r-o-w wide enough for LRT, bicycles and freight will occur
Environmental Justice	St. Louis Park High School and Peter Hobart School both within ½ mile of the MN&S tracks have minority populations large enough to be considered a protected group	Impacts to minority groups caused by freight trains will not change. Freight trains already exist in the area.
Land use consistent with comprehensive plan	Yes	Yes, links in Chapter 3 are not conclusive.
Compatible with planned development	Yes	Yes, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
Economic Effects	No, beneficial effects to the local economy	Yes, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
Development Effects	No, beneficial effects to development	Yes, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
Safe, efficient, and effective movement of freight throughout the region, state and nation	No, the proposed re-route is not safe, efficient or effective	Yes
Continuous flow of freight throughout the study area	Yes	Yes

Table 11.2-1 - Evaluation of Alternatives

	Re-route Option	Co-location Option
Improved Mobility	does not support goal - re-route area will be congested	supports goal - co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT/ mobility issues are compatible
Provide a cost-effective, efficient travel option	supports goal	supports goal
Protect the environment	does not support goal - improper use of infrastructure is dangerous	supports goal, the co-location area was an active main line Freight rail yard for 110 years and then an active rail line. It has never been legally abandoned
preserve and protect the quality of the life in the study area and the region	does not support goal, improper use of infrastructure is dangerous	Supports goal, the co-location area was an active main line Freight rail yard for 110 year and then an active rail line. It has never been legally abandoned. Nothing about the freight changes
Supports economic development	Does not support goal, small businesses in the re-route area will be negatively impacted by the increased number or freight trains.	Supports goal, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
supports economically competitive freight rail system	Does not support goal, re-route is unsafe, inefficient and ineffective	Supports goal
Overall performance	Supports goal, LRT will be able to proceed as hoped	Supports goal, LRT will be able to proceed as hoped

11.2.43 and 11.2.5 - LRT 3A (LPA- re-route) Compared to LRT 3-1 (LPA-Co-location)

In a September 2, 2011 letter the FTA informed the HCRRA that since the proposed freight rail reroute is a connected action to the SWLRT, it must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1)

This letter also instructed the HCRRA to add co-location to the SWLRT- DEIS study. Since NEPA was written to ensure that environmental factors are weighted equally, it should be assumed that all factors concerning the re-route as part of SWLRT and co-location as part of SWLRT would be given the same scrutiny. In fact, statute 23 CFR Sec. 774.17 under NEPA, which contains a "test" for determining whether an alternative is "feasible and prudent," should have been applied equally to both the proposed reroute and co-location options. The lack of effort to do a true "feasible and prudent" analysis of the freight rail reroute as part of the SWLRT--DEIS is staggering.

Had the "test" from 23 CFR Sec. 774.17 been applied equally to the re-route portion of LRT 3A and the co-location portion of LRT 3A-1 the following would easily have been determined:

LRT 3A / LRT 3A-1 - "Test" 23 CFR Sec. 774.17

"Test" Category	LRT 3A - Re-route	LRT 3A-1 - Co-location
(i) It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;	Yes	No
(ii) It results in unacceptable safety or operational problems;	Yes, Safety issues include, but are not limited to, aggressive curves, excessive grade changes, multiple at grade crossing that are blocked simultaneously, narrow right of way. Operational issues include but are not limited to, locomotives pulling 100+ car trains up steep grades, more miles to St. Paul destination.	No, Safety issues caused by co-location of freight and LRT are surmountable. They are similar to problems at Blake Road on the SWLRT and most of the proposed Bottineau LRT line.

(iii) After reasonable mitigation, it still causes:	The City of St. Louis Park estimates a minimum of \$50 million needed for mitigation yet the reroute still causes:	Cost of mitigation for co-location has not been estimated, but since the issues are not unusual it is logical to think mitigation will take care of issues
(A) Severe social, economic, or environmental impacts;	Yes, Mitigation will not straighten tracks, lessen grade changes or move crossings or lessen the increase in heavy rail cars.	No, Impacts to communities will all be caused by LRT because mainline freight has been established in the area for over 100 year.
(B) Severe disruption to established communities;	Yes, The increase of 788% in the number of rail cars on the MN&S is excessive. The noise from the locomotives on the interconnects will be greater than any noise currently cause by freight trains, (a whistle-free zone will not solve noise issues) and the length of vehicle queues at grade crossing will be disabling	No, The number of rail cars in the area will not change. Any disruption will be cause by the addition of LRT.
(C) Severe disproportionate impacts to minority or low income populations;	Yes, Minority populations at two of the 6 area schools will be impacted.	No
(D) Severe impacts to environmental resources protected under other Federal statutes;	Yes, there is potential for additional water resource impacts along the MN&S Spur and the BNSF Wayzata Subdivision.	No, freight rail in this area will not change and therefore, any impact on the environment will be caused by LRT
(iv) It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;	Yes, the building of the interconnects and new track needed will be very disruptive in the short term. Long term costs of the project also may be excessive since the railroads have not agreed to maintain the interconnects. Also, the cost to the CP during construction and the TC&W following	Yes, during construction of SWLRT there could be some additional costs however, once implemented co-location will be no different for freight traffic than what occurs today.

	implementation or the interconnect could be extensive	
(v) It causes other unique problems or unusual factors;	Yes, there is potential to encounter more hazardous and regulated materials sites along the MN&S Spur and the BNSF Wayzata Subdivision. There is also potential to encounter hazardous materials from the construction of the interconnect over the contaminated golden site.	No. The freight will not be any different than the freight today.
(vi) It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.	Yes, the cumulative impacts of the problems faced by the rerouting of the TC&W freight are unprecedented in their magnitude.	No. Although there will be some minor issues cause by the introduction of the SWLRT to the area, the problems are all not unusual to LRT and are surmountable.

Applying the “test” from 23 CFR Sec. 774.17 reveals that the proposed reroute in LRT 3A (LPA) is neither “feasible or prudent.” Therefore, the use of 0.81 acres of Cedar Lake Park according to the Act of 1966 codified at 49 U.S.C. 303 and 23 U.S.C. 138 will not impede the building of SWLRT.

LRT 3A-1 (Co-location) best meets the Southwest Transitway project’s Purpose and Need Statement as expressed by the goals of improving mobility, providing a cost-effective and efficient travel option, preserving the environment, protecting quality of life, supporting economic development, and developing and maintaining a balanced and economically competitive multimodal freight system. **In light of the facts presented in this SWLRT-DEIS response it is recommended that LRT 3A-1 (Co-location) be chosen as the only viable option for SWLRT.**

11.4 - Next Steps

Should, despite overwhelming evidence that LRT 3A-1 (LPA - co-location) is the option that best fits the needs of the SWLRT, LRT 3A (LPA - reroute) be chosen as the route for the SWLRT the next steps by Safety in the Park will include but not be limited to the following:

- A request for an independent investigation of “typos” in the SWLRT-DEIS and the time it took to find and correct the “errors”
- A request for an independent investigation as to the reason for the STB from being notified of the publication of the the SWLRT-DEIS and the time it took to find and correct the over-site.
- An appeal of the SWLRT-FEIS
- An effort to convince the City of St. Louis Park that municipal consent should be denied based on resolution that make it clear the City of St. Louis Park opposes the rerouting of freight trains from the CP’s Bass Lake Spur to the CP’s MN&S Spur if a viable option exists. (St. Louis Park City Resolutions, 1996--City of St. Louis Park Resolution - 96-73 [Appendix 1]; 2001 City of St. Louis Park Resolution - 01-120 [Appendix 1]; 2010 City of St. Louis Park Resolution - 10-070 http://www.stlouispark.org/webfiles/file/freight_rail.pdf; 2011 City of St. Louis Park Resolution 11-058 http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf).
- An effort will be made to convince the State of Minnesota not to fund SWLRT until further study is completed such that the missing information and flawed assumptions can be addressed. This secondary study needs to have a scope agreed upon by the city of St. Louis Park, Safety in the Park, and railroad companies. Furthermore, the secondary study must be conducted by a government agency and engineering firm not previously associated with the proposed re-route. Once the new study is completed, a computer-generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed re-route prior to making decisions.

Document list for chapter 11

- 1996 - City of St. Louis Park Resolution - 96-73 (Appendix 1)
- 1999 - St. Louis Park Task Railroad Study
http://www.hennepin.us/files/HennepinUS/Housing%20Community%20Works%20and%20Transit/Regional%20Railroad%20Authority/Authority/Railroad_Study_March_1999.pdf
-
- 2001 City of St. Louis Park Resolution - 01-120 (Appendix 1)
- 2010 City of St. Louis Park Resolution - 10-070
http://www.stlouispark.org/webfiles/file/freight_rail.pdf
- Short Elliot Hendrickson Inc. (SEH) - Comparison of the MN&S route and the Kenilworth route - http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf
- 2011 City of St. Louis Park Resolution 11-058
http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf
- Evaluation of Twin Cities and Western Railroad responses(EAW)
http://www.mnsrailstudy.org/key_documents

MnDot Finding of Facts and Conclusions

c. City of St Louis Park appeal

d. MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray, et al

e. Office of Hennepin County letter, dated Dec. 19, 2011

f. MnDot Dot Resolution, dated Dec. 20, 2011

CHAPTER 12 - PUBLIC AGENCY COORDINATION AND COMMENTS:

12.1.1

The statement is made that “the public and agency involvement process has been open and inclusive to provide the opportunity for interested parties to be involved in planning. Stakeholders had an opportunity to review and comment on the analysis and results at major milestones reached during the course of the study. The program was conducted in a manner consistent with National Environmental Policy Act (NEPA) and Section 106 regulations.” This statement is completely false considering the public concerned about the freight rail re-route issue.

NEPA 1500.2(d) states that the leading agency must “encourage and facilitate public involvement in decisions which affect the quality of the human environment.” This regulation was clearly ignored in regards to the potential freight rail re-route issue. Hennepin County did not “encourage and facilitate” public involvement concerning this issue. Hennepin County did not allow the “opportunity to review and comment on the analysis and results at major milestones reached” In fact, Hennepin County refused attempts for public comments and concerns regarding the freight rail issue at all of the outreach meetings prior to September 2, 2011. This included major milestone including the selection of the LPA. Because of the deliberate exclusion of the freight issue, the LPA selection process must be reopened and reexamined allowing public input to become part of the process.

12.1.1.2

CAC Process - After the proposed re-route was added to the SWLRT project Safety in the Park was added to the Community Advisory Committee of the SWLRT. The CAC group had a reputation of being well run, open minded and inclusive. Our wish was to explain that our opposition to the re-route is not (as has been heralded by the county) to be anti-LRT. We wanted it known that our concern is simply that our county and state governments are misusing a piece of infrastructure and in doing so creating an unlivable, unsafe environment for a significant segment of the population.

Instead of listening to our concerns, the leadership of the CAC committee took the highly unusual step of changing the CAC Charter that had just been accepted by the committee. The original charter allowed for alternate members to take part in meetings as long as the leadership was notified in advance of the alternates attendance. (Appendix 12.1.1.2) The new charter rescinded the rights of alternates. Making it impossible for residents to be adequately represented.

The Community Engagement Steering committee is a local coalition of community groups formed around the Corridors of Opportunity within the Minneapolis- St Paul metro area. This body has met with the staff of the SWLRT, in regards to the principles and strategies of the CAC meeting.

The following is a list of recommendations that were adopted in Spring 2012.

Based on lessons learned from community engagement on the Central Corridor, SWLRT, Gateway Corridor, and Bottineau, the Community Engagement Steering Committee makes these recommendations on the formation, structure, and process for Community Advisory Committees (CAC):

- a) CACs will be formed early in the transitway corridor planning process at the start of the scoping phase.
- b) The purpose of CACs will include being a resource and check point for community engagement throughout the transitway corridor and the adjacent communities. They will review and approve a corridor project community engagement plan.
- c) CACs will identify the community issues and assign problem solving teams that include community members and project staff.
- d) Community Advisory Committees will be a community driven body facilitated and provided staff support by corridor project staff.
- e) CAC membership will be selected by communities they represent along transitway corridors.
- f) CAC and Business Advisory Committees will meet together on a quarterly basis.
- g) The Community Engagement Steering committee will support transitway corridor project staff with connections to underrepresented groups along the transitway corridors such as contacts to:
 - Faith communities
 - Cultural communities
 - Place based groups
 - Communities of color
 - Small and Ethnic businesses
 - Community Engagement Steering Committee members
 - Disability community
 - New immigrant communities
 - Low-income communities
 - Students at high schools, community colleges
- h) The orientation for the CAC will include environmental justice, equitable development, and cultural awareness training in their orientation that includes a combined map identifying where the underrepresented communities (low income, communities of color, new immigrants, and disabled) live.
- i) CACs will have the ability to set their own agenda, pass motions, and make recommendations to the corridor policy advisory committee and the corridor management committee through their voting representative.

- j) CACs will elect a chairperson from their membership who represents a grassroots community along the transitway corridor
- k) A community representative will be elected to serve by the CAC on the transitway corridor policy advisory committee as a voting member.
- l) Construction Communication Committees should be set up at least one month in advance of construction, with representatives appointed by grassroots community groups.

The SWLRT CAC has not been conducted in good faith on some of the recommendations that were adopted. It should be considered that the recommendations were agreed upon but not acted upon or implemented in process.

1. The SWLRT CAC was expanded in April 2012. The BAC was formed also in August 2012. To date, the CAC and the BAC has not met, nor is it in the agenda for the near future. part f.
2. The CAC does not have representations for the minority group along the Freight Rail Re-route or students from the St Louis Park High School. There has been no active recruitment for these group by the SWLRT Staff. part g.
3. The CAC members have not been able to set the agenda, pass motions, or make recommendations to the policy advisory committee. If there is a voting representative, the members of the CAC are not aware of this ability, who is the voting member, or how this vote is conducted. part i.
4. There has been no election to establish a chairperson. part j.
5. There has been no election to establish a representative the Management Committee. part k
6. Community issues were identified in a "dot-mocracy" survey, however details of the survey were denied the CAC committee and no subcommittees have been established. part c
7. The CAC has not been included as a resource and check point for community engagement throughout the transitway corridor and the adjacent communities. They have not reviewed or approved a corridor project community engagement plan. part b

12.1.1.4

Table 12.1-1 lists meetings of Neighborhood, community and business groups where Southwest Transitway information was presented. The discussion of the freight issue was not allowed at any of these meetings.

12.1.1.5

Since the DEIS was launched, three additions of the Southwest Newsline were published and distributed. The freight issue was deliberately excluded from all three publications.

12.1.1.6

Table 12.1-2 lists community events where staff attended southwest materials were distributed. The opportunity to learn about the freight issue or discuss the freight issue was deliberately excluded from every one of these community events.

12.1.1.8

Information about the freight issue was deliberately excluded from the southwesttransitway.org website prior to Sept, 2011.

12.1.2

None of the articles on SW LRT listed in Table 12.1-4 included the freight issue. Table 12.1-5 lists media outlets contacted to run stories about the SW LRT project. None of the media outlets were contacted by project staff and asked to run a story about the freight issue.

12.1.3

Twenty-five public meetings and open houses were held at locations within the Southwest Transitway project corridor to provide information to affected and interested communities and parties. The primary purpose of these meetings was to inform of the public about the study's process and to give all interested parties an opportunity to provide input, comments, and suggestions regarding the study process and results. The opportunity to provide input, comments and suggestions regarding the freight issue was deliberately excluded from each and every one of these 25 meetings.

12.1.3.1

The scoping process is designed to inform the public, interest groups, affected tribes, and government agencies of the Draft EIS and to present the following items for comment:

1. Purpose and need for the project;
2. Alternatives to be studied; and
3. Potential social, economic, environmental, and transportation impacts to be evaluated.

The freight issue is the most controversial issue of the SW LRT project. The freight issue has the greatest potential social, economic and environmental negative impacts yet it was not included during the vast majority of the SW LRT scoping process. The freight issue was deliberately excluded after multiple requests to include it in the scoping process. A specific and formal request from the City of St. Louis Park was made on October 14, 2008 to include the freight issue under the scope of the SWLRT DEIS. (Appendix 12.1.3.1a) The St. Louis Park Public Board of Education made a similar request on November 3, 2008. (See Appendix 12.1.1.3.1b) The NEPA Implementation Office of Enforcement and Compliance Assurance wrote a letter dated November 6, 2008 that stated the "impacts and contributions to the existing transportation network including freight/industrial, automotive, pedestrian, and bicycle modes should be fully presented in the DEIS".(Appendix 12.1.3.1c) Despite all of these requests, the freight issue was denied inclusion in the DEIS scope prior to Sept 2, 2011. The reason for this exclusion is unknown and not published in the DEIS.

12.1.3.2

The discussion of the freight issue was deliberately excluded from all three of the open houses held on May 18, 2010, May 19, 2010 and May 20, 2010.

12.1.5

The only opportunity the public was given by Hennepin County to discuss the freight rail re-route was at the PMT meetings discussed in section 12.1.5. However, any discussion of possible alternatives to the re-route (co-location) or the freight re-route's connection with SWLRT was strictly forbidden at these PMT meetings. In addition, the vast majority of PMT members and St. Louis Park community were not satisfied with the PMT process. The last PMT meeting included a public open house where over 100 St. Louis Park citizens attended and expressed their outrage regarding the PMT process. The comments made at the open house need to be part of the DEIS since the freight issue was excluded from all other opportunities for public input. The open house can be viewed at <http://vimeo.com/17945966>

In addition, Sue Sanger and Paul Omodt (St. Louis Park Council Members) wrote a letter to Hennepin County Commissioner Gail Dorfman and described the PMT as an “illegitimate and indefensible process” The complete letter can be found in the appendix. (Appendix 12.1.5a) Another letter was written by Ron Latz (State Senator), Steve Simon (State Representative) and Ryan Winker (State Representative) to Hennepin County Commissioner Mike Opat. (Appendix 12.1.5b) The letter was written because of the multitude of complaints made about the PMT process from their constituents. The letter asked that the residents of St. Louis Park receive fair treatment as Hennepin County makes a decision about a the possible re-route. They asked that fair studies and a transparent process. Despite these letters, Hennepin County did not change the way they treated St. Louis Park residents.

The following are comments made by PMT members to provide an overview of the severe shortcomings of the PMT process.

Kathryn Kottke (Bronx Park): “The ‘process’ was very frustrating because the questions I asked were not answered. In addition, during the open session residents were allowed to ask questions, but they were openly ignored; at some points, Jeanne Witzig, who facilitated the meetings, would simply respond, ‘Next?’ after residents had asked a question. Any discussions about SW LRT or possible alternatives to the reroute were not not allowed.

“Perhaps most frustrating was that we were asked to list our mitigation requests, but when the engineers had completed their work, they not only ignored every single mitigation request we had made, but they added mitigation we openly rejected such as a quiet zone by the high school and the closure of the 29th street at-grade crossing. Instead of making the reroute safer, Kimley-Horn planned for welded rails that would enable trains to run faster through a very narrow corridor.”

Karen Hroma (Birchwood Neighborhood): “The PMT meetings were held only so Hennepin County can check a box and claim that they gathered “public input”. The experience was frustrating and insulting. Several questions of mine went unanswered. None of the Birchwood residents’ mitigation requests were given consideration. In fact, quite the opposite happened. Although the Birchwood residents very specifically asked that the 29th Street intersection remain open, the PMT concluded that the 29th Street be closed and that is was considered “mitigation”. When the PMT wanted to discuss possible alternatives to the re-route we were told that this was not the appropriate time or venue to discuss.”

Jake Spano (Brooklawns Neighborhood Representative) and current St. Louis Park Council Member): “I do not support increasing freight rail traffic through St. Louis Park or the rerouting of freight rail traffic North through the city until it has been proven that there is no other viable route. To do this, we need objective, honest assessments and an acceptance of mitigation requests by the people of the St. Louis Park. What was presented during the Project Management Team (PMT) process was lacking in all three of these areas.”

Claudia Johnston (City of St. Louis Park Planning Commission): "PMT meetings were conducted to get input from cities, residents and businesses impacted by the SWLR and rerouting freight. The document that was produced from those meetings – the EAW – completely ignored the input of those stakeholders. Therefore the conclusion is that Hennepin County never had any serious intention of working with those stakeholders and used that process to complete one of their required goals which was to conduct public meetings. Hennepin County has continued to withhold information from public authorities like the Met Council, Regional Rail Authority and the FTA by producing documents like the EAW and the DEIS that contain false information."

Kandi Arries (Lenox Neighborhood): "I participated in the PMT as a concerned resident of Lenox neighborhood. The PMT was 'pitched' as a chance to problem solve and discuss issues openly. It became apparent though that the PMT was a poster child for government decisions that are made at the top, regardless of the input of the residents and the people impacted. Residents asked questions during the open forum but no answers were given. PMT members gave input to the consultant staff but responses were rare, if at all. Major changes were implemented by the county and the engineer- the lose of the southern connection and change of the cedar lake bike trail to a bridge. These changes were just implemented without the input of the members. The PMT was the forcing of the county wishes regardless of the resident concerns. Shameful."

Jeremy Anderson (Lenox Neighborhood): "I participated in the PMT meetings as a representative--along with Kandi Arries--of the Lenox neighborhood. Together, we solicited many pages of comments and suggestions for remediation, and submitted that information to the County. Everything we submitted was summarily ignored. At every turn, the County pretended that the changes THEY wanted were the ones which we had submitted, and that we had never submitted any suggestions. When questions were asked, the answer given by the representatives of the county was: 'this meeting is not to address that question.' -- it didn't matter WHAT the question was. My time was wasted, every citizen who attended had their time wasted, and the County wasted a significant amount of money on a consultant who did nothing other than look confused or defer to a representative of the county. I have never experienced anything so frustrating in my years of dealing with government at all levels. I have learned from this process that Hennepin County does what Hennepin County wishes, regardless of what the citizens say. I would expect government like this in a Monarchy, an Oligarchy, or some sort of despotic Dictatorship. Behavior such as this from a supposedly representative government is absurd, shameful, and should not in any way be encouraged. The irregularities around the EAW and DEIS are so massive, so coordinated and so mind-boggling as to suggest fraud and graft on a quite noticeable scale. The County has continually dodged funding questions, and whenever a number is suggested which looked unfavorable to the freight reroute, that number has magically been declared a typo at a later date. It is my suspicion that if the proposal were shown to violate several of Newton's Laws, that Hennepin County would declare that Newton had been incorrect in his fundamental discovery."

Lois Zander (Sorenson Neighborhood): “As a member of the PMT and representative of the Sorensen Neighborhood, I was able to see first hand how the public process was manipulated to make it look as though our neighborhood concerns were actually going to be considered in making a determination about the re-route. Prior to the meetings, PMT representatives were asked to get input from their neighborhoods regarding mitigation, should the reroute go through St Louis Park. In good faith, a neighborhood meeting was called and a list of concerns and possible mitigations was put together. This process put me in the position of getting our hopes up that our position would be heard, just to be dashed when exactly zero mitigations were revealed in the final document. I then needed to go back to my neighbors with this unhappy news and an explanation as to why I bothered them in the first place.

“During PMT meetings, faulty results were given as proof we needed no mitigation for vibration, noise and safety. For example: an "expert" took a reading next to the current small train as it passed along the MN&S. He had beautiful charts and graphs all proving the noise was below any level of concern and therefore did not need to be mitigated. This certainly does not represent the noise of the mile long 2 or 3 engine train which will be passing through our neighborhood and by our schools. The same ploy was used to prove to that vibration would not be a concern to our homes and schools. Do they take us for fools? This is a waste of taxpayer money and an insult to all of us who worked in good faith at our meetings.

“When we raised safety concerns about students being on the tracks going to the football field or to lunch, we were told the trains cannot stop and if someone were killed it would be their fault for trespassing. Students will still be at risk simply by walking across a sidewalk crossing and there they will not be trespassing.

“I was extremely disappointed to find that the SWLRT-DEIS was also a sham. Instead of a new study, the same faulty results were once again used to disprove our need for mitigation or co-location. Even though studies have clearly shown the MN&S is not suitable for the reroute and that co-location is a cheaper and more viable alternative, the powers that be inexplicably insist on going through on the MN&S in St Louis Park.

“We do not want this hideous reroute through the middle of our city for which we have worked so hard to gain model city status as a top 100 city in the country to live. We are very disappointed by this process, which took so much of our time and energy, and we will continue to fight this egregious ‘mistake’.”

Joe LaPray (Sorenson Neighborhood) and Jami LaPray (Safety in the Park): “Almost fifteen years ago we got involved in the effort to stop the proposed freight rail re-route. We started small, writing letters to our elected officials and commenting during the scoping of the SWLRT. Each time we commented we were ignored or told the relocation of freight will make someone else’s life easier. We vowed to continue to work toward a resolution that would not cost us our safety and home.

“When the PMT was formed we both volunteered to take part. The idea that we might finally be heard was wonderful. We were told the PMT members would have input on the design of the proposed re-route . We believed that even if we did not get everything we wanted, at least our ideas would be part of the design and life would be better for all of St. Louis Park. From the beginning this was not the case. Questions we asked either went unanswered or if answered after weeks of waiting the answers were cursory. We were told during the August 26, 2010 PMT meeting where in the process mitigation would be discussed and considered. In good faith we worked hard to reach out to our neighbors and compile a list that was not frivolous (we wanted things like bushes and sound barriers) we submitted that list to Kimley-Horn the engineering firm writing the EAW. When the EAW was finally published the list we worked hard to compile was not even a footnote in the EAW document.

“Other information gleaned during the PMT process that is pertinent to our concern was also left out of the EAW document and subsequently left out of the SWLRT-DEIS. For Example: during one of the meetings, Joseph asked, Bob Suko General Manager of the TC&W Railroad a question about the ability of a loaded unit train to stop should an obstacle be in an intersection near the Dakota and Library Lane intersections. The answer was “no” they could not stop.

“In the end it can only be concluded that the PMT process was designed to fulfill the duty of government agency to hold public meetings. Nothing else came from the process.”

Thom Miller (Safety in the Park): “The entire PMT process was clearly not designed for public input, but rather for the county ‘check the box’ that they had held public meetings. Each meeting included a rather heated exchange between the facilitators and members on the re-route issue because the facilitators tried to shut down any such discussion.”

The DEIS fails to mention the 2011 April 17 and 28 freight re-route listening sessions that were held by the city of St. Louis Park. Hundreds of St. Louis Park residents voiced their opposition to the freight reroute. Those comments should be included as part of the DEIS. These comments are especially valuable considering the freight issue discussion was excluded from the DEIS scoping process. Video of the listening sessions can be found at <http://vimeo.com/23005381> and <http://vimeo.com/23047057>.

12.2.1

SATETEA-LU Section 6002 states:

“(1) PARTICIPATION- As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.

“(4) ALTERNATIVES ANALYSIS-

“(A) PARTICIPATION- As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.

“(B) RANGE OF ALTERNATIVES- Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.

“(C) METHODOLOGIES- The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.

“(D) PREFERRED ALTERNATIVE- At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.”

Hennepin County purposely kept the freight issue out of the SW LRT scope despite multiple requests from the City of St. Louis Park, the City of St. Louis Park School Board and the public. They clearly were not following the SAFETEA-LU directive to involve the public and participating agencies as early as possible. In fact, they did quite the opposite. The reroute was purposely excluded from the SW LRT scope so that Hennepin County could keep its agenda to remove the freight from the Kenilworth Corridor. The preferred alternative was developed to a much higher level of detail than LRT 3A-1 (co-location). Hennepin County has made every effort to keep co-location off the table. By the time the FTA forced Hennepin County to include co-location in the scope of the DEIS, so much progress has been made on the SW LRT project that it is impossible for the Met Council to make an impartial decision on the reroute verses co-location. The Met Council is not seriously considering co-location because a vote on the LPA has already occurred. The LPA selection process must be reopened with the freight issue included in order for an impartial decision to be made.

12.2.2

The Section 106 review process is an integral component of the National Historic Preservation Act (NHPA) of 1966. Section 106 of the NHPA requires each federal agency to identify and assess the effects their actions will have on historic resources. The process requires each federal agency to consider public views and concerns about historic preservation issues when making final project decisions. The ultimate goal of Section 106 is to seek agreement among these participants regarding preservation matters arising during the review process. At the time that the Section 106 notification letters were sent out, the potential reroute of freight was not considered part of the SW LRT project. The Section 106 review process should be done with the potential reroute of freight included.

12.3.1

From the initiation of the Draft EIS process in the spring of 2008, Southwest Transitway project staff have been collecting public comments and filing a public comment database specifically designed for the project. Currently, this database contains more than 1,000 comments provided by approximately 250 commenters. The database excludes any comments regarding the freight issue because the freight issue was not part of the SW LRT scope prior to Sept, 2011. The LPA selection process must be redone with the freight issue included so that public input and an unbiased decision about the LPA can be obtained.

12.3.2

In this section the FTA and the Metropolitan Council state that they will continue to meet with interested parties and stakeholders throughout the NEPA process. This section describes Metropolitan Council developed Communications and Public Involvement Plan (CPIP) which recognizes the need to communicate with the public. The CPIP's goals are:

1. Develop, maintain and support broad public understanding and support of the project as an essential means to improve our transportation system and maintain regional competitiveness.
2. Build mutual trust between the Metropolitan Council, its partners and the public by creating transparency through information sharing and regular, clear, userfriendly, and two-way communication about the project with community members, residents, businesses and interested groups in the corridor.
3. Promote public input into the process by providing opportunities for early and continuing public participation and conversation between the Metropolitan Council and the public.
4. Maintain on-going communication with project partners and ensure that key messages are consistent, clear and responsive to changing needs.
5. Inform elected officials and funding partners of the project and status to ensure clear understanding of the project, timing and needs.
6. Provide timely public information and engagement to ensure that the project stays on schedule and avoids inflationary costs due to delays.

The Metropolitan Council has failed reaching any of these goals in regards to individuals concerned with the freight issue. Because the freight issue was excluded from the vast majority of the SW LRT scoping period, Safety in the Park has attempted to set up a conference call between the Met Council, the FTA and the Safety in the Park co-chairs. Safety in the Park believes that this conference call would not make up for the exclusion of the freight issue for the majority of the SW LRT scoping period but would be a small step towards helping the FTA and Met Council understand the public's concerns regarding the potential reroute. Safety in the Park is optimistic that a conference call can be set up in the near future.

APPENDIX H, PART 1:

MN&S Rail Study, March 13 (pages 64-189)

In September 2011, the FTA requested that the SWLRT DEIS include an analysis of the impacts of re-routing the TC&W freight traffic. The FTA also requested an analysis of the co-location of the freight rail with the LPA or 3A such that a full analysis of alternatives would be completed according to the NEPA regulations.

The MN&S Report is the information and data that was used in the analysis of the environmental impacts for the FRR sections.

It is important to note that the information contained within the report is the same data that was presented as the MN&S Freight Study Environmental Assessment Worksheet completed by the Minnesota Department of Transportation, dated May 12, 2011, with collaboration from the Hennepin County Regional Rail Authority. During the 30 day comment period, Safety in the Park!, the City of St Louis Park, local agencies, Canadian Pacific and TC&W Rail companies, and many residents and neighborhood associations commented on the impacts discussed, including a request for further study.

The Minnesota Department of Transportation released a Finding of Facts and Conclusions on June 30, 2011 which listed the projects as a Finding of No Significant Impacts and that the project did not warrant further study as an EIS. The City of St Louis Park and a group of impacted residents and businesses appealed this decision to the Minnesota Court of Appeals, following the guidelines established within the State of Minnesota.

The City Of St Louis Park appealed on the basis of: 1) that the MN&S freight rail project and SWLRT was a connected action; 2) failure to treat the freight rail project as a connected action eliminated the option of including an environmental analysis of co-locating the freight rail and light rail in the Kenilworth Corridor and 3) the MN&S freight rail project as a stand alone project has the potential for significant impacts, requiring an Environmental Impact Statement.

The impacted residents and businesses appealed on the basis that: 1) the EAW violated Minnesota Environmental Protection Act (MEPA) because it fails to consider the SWLRT as a connected and phased action; 2) MN&S Freight Rail Study analysis of Noise and Vibration, and mitigation, is inadequate and 3) the analysis of the project's impacts to safety was inadequate.

After the September 2011 FTA letter and during the appeal process, representatives from Hennepin County requested that the appeals would be dropped. (LaPray Response to the motion to dismiss Jan 10, 2012)

Within two weeks of the scheduled appeal court date, the Office of the Hennepin County Attorney issued a statement dated December 19, 2011 from the Hennepin County Regional Rail Authority that the MN&S Freight Rail Project no longer warranted a separate environmental analysis as a stand alone project. On December 20, the Minnesota Department of Transportation issued a statement proclaiming that MnDot 'vacates' the EAW for the Proposed Freight project. The action of 'vacating' the document was an unprecedented end to an Environmental Assessment Worksheet in Minnesota but it forced the appeal to be dropped because there was no environmental document to appeal. This is a violation of the trust of constituents that governing bodies will act in good faith and without a predetermined objective - an important right within government projects.

It is with this history that the MN&S Report included as supporting documentation for the freight rail reroute must be considered. The MN&S report is the same hard field data that was presented as the MN&S Freight Rail Project EAW. The MN&S report does not include anything significantly different even though the EAW project was in the steps for an appeal, requesting more study of the impacts. It has the same inaccuracies and NEPA, MEPA violations. The SWLRT DEIS usage of this as supporting evidence therefore can only include the same inaccuracies and environmental act violations, partly due to the fact that the request for additional study was ignored by Hennepin County. A significant part of the EAW appeal was the request that the project was studied to the level of an Environmental Impact Statement. This only highlights that the MN&S Report and the included field studies are not to the level of study of an EIS. Yet, this is the information simply inserted into the SWLRT DEIS as an equal study and evaluation.

In addition, the MN&S Report is dated as March 13, 2012 but it is not clear who the report was released to. The staff at the City of St Louis Park were not consulted which highlights that the report did not have full disclosure with impacted stakeholders.

Whenever possible- comments from the EAW or the appeals have been used in this response.

Source for the MN&S Freight Rail Study:

http://mnsrailstudy.org/yahoo_site_admin/assets/docs/FINAL_MNS_Freight_Rail_Study_EAW_05-12-2011.131184329.pdf

Source for the MnDot Finding of Facts and Conclusions

http://mnsrailstudy.org/yahoo_site_admin/assets/docs/MNS_Findings_of_Fact_June302011.187180927.pdf

SAFETY IN THE PARK!

APPENDIX

CHAPTER 1 DOCUMENTS

CHAPTER 1 APPENDIX - DOCUMENT 1

City Council meeting minutes
May 6, 1996

Councilmembers Latz and Young praised the caliber of the candidates and encouraged them to apply for the various City Boards/Commissions.

8f. Resolution opposing railroad construction in St. Louis Park
Resolution 96-73

Tony Kranz, 7831 Edgebrook Dr., addressed Council. He was the spokesman for the railroad noise problems in his neighborhood. He offered comments on the proposed resolution as well as some additional verbiage.

City Attorney Popham said the wording of the Whereas clauses in Mr. Kranz' proposed additions to the resolution were consistent with the thrust of the resolution before Council.

Councilmember Jacobs noted a potential amendment to the resolution language, i.e. in the 12th Whereas, rewrite to say, ".....locomotives and cars have a potential to become a nuisance..."

Mr. Petersen said the resolution reflects the position of Council of opposing construction of an interconnection between the east/west portion of CP Rail and the north/south portion which will cause the Twin City and Western rail line to have to head east out of St. Louis Park and up through the Kenwood area and connect with the Burlington Northern tracks.

It was moved by Councilmember Jacobs, seconded by Councilmember Sanger, to adopt Resolution 96-73 entitled "A resolution expressing opposition to construction of railroad intersections at the Milwaukee junction and at the Canacian Pacific and Burlington Northern Railroad tracks" as amended in the 12th Whereas, incorporating the additions as proposed by Mr. Kranz and further, to make his May 6 letter a part of the official record.

The motion passed 6-0.

8g. Second reading of ordinance amending Code relating to required signatures on checks
Ordinance No. 96-2062

It was moved by Councilmember Jacobs, seconded by Councilmember Young, to adopt Ordinance 96-2062 entitled "An ordinance relating to facsimile signatures on City checks; Amending Sections 5-102 and 5-103."

The motion passed 6-0.

8h. Approval of 1995-97 labor agreement with firefighters
Resolution 96-62

RESOLUTION NO 96-73

A RESOLUTION EXPRESSING OPPOSITION TO CONSTRUCTION OF RAILROAD INTERSECTIONS AT THE MILWAUKEE JUNCTION AND AT THE CANADIAN PACIFIC AND BURLINGTON NORTHERN RAILROAD TRACKS

WHEREAS, the Hennepin County Railroad Authority has acquired the 29th Street rail line through the City of Minneapolis, and

WHEREAS, the closure of this route will cause the Twin City and Western Railroad to need an alternative route to the St. Paul barge facilities, and

WHEREAS, the Canadian Pacific Railroad has evaluated the alternatives of either constructing new trackage interconnections within St. Louis Park or use of a rail trackage in the City of Minneapolis, and

WHEREAS, the Canadian Pacific Railroad, has indicated they prefer to use the existing route through the City of Minneapolis, and

WHEREAS, the Birchwood, Lenox, Bronx Park and Sorenson neighborhoods would experience additional train traffic, which would cause additional noise and vibration, and

WHEREAS, the north-south trackage in St. Louis Park is in close proximity to existing residential areas with a minimal distance to existing homes which would unduly cause visual pollution, and

WHEREAS, the north-south trackage is in proximity to the St. Louis Park High School, and has several uncontrolled railroad crossings with residential streets causing additional danger to the residents and blowing of the train whistle, and

WHEREAS, the existing rail lines through Minneapolis can be used without expenditure of State funds to create a new interconnection of trackage where none currently exists, and

WHEREAS, the City of St. Louis Park is a community with deep historical roots in the railroad history of the State of Minnesota, and

WHEREAS, the railroad industry has undergone significant change recently due to property real property sales, route mergers and bankruptcies, and

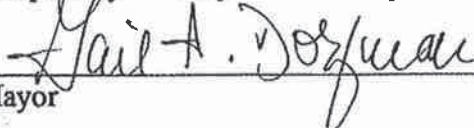
WHEREAS, residents of the City are stakeholders in any change that results in operational modifications inconsistent with the historical railroad use of the track in their neighborhood, and

WHEREAS, the switching operations of railroad locomotives and cars have a potential to become a nuisance if performed in residential neighborhoods.

NOW THEREFORE BE IT HEREBY RESOLVED by the St. Louis Park City Council that they are opposed to the construction of the new railroad interconnections of the Canadian Pacific Railroad in St. Louis Park and endorse the use of the Minneapolis rail route and that the City continue its efforts to gain cleanup of the industrial environmental contamination on railroad property and continue to encourage moving the present switching operations from the Edgebrook Park area to an industrial area to the West.

BE IT FURTHER RESOLVED that copies of this resolution be distributed to State legislative leaders and the affected railroad companies.

Adopted by the City Council May 6, 1996


Mayor

ATTEST:


City Clerk

Reviewed for Administration:


City Manager

Approved as to form and execution:


City Attorney

SAFETY IN THE PARK -

RESOLUTION NO. 01-120

CHAPTER 1 APPENDIX - DOCUMENT 2

**RESOLUTION ADOPTING THE
RAILROAD TASK FORCE RECOMMENDATIONS
AND STATING THE INTENT OF THE CITY TO
MOVE TOWARD IMPLEMENTATION OF THE
STRATEGIES CONTAINED IN THE REPORT**

BE IT RESOLVED by the City Council of the City of St. Louis Park, Minnesota as follows:

WHEREAS, A Railroad Task Force was created to establish an overall strategy for addressing rail issues in the city; and

WHEREAS, Several affected neighborhoods and other affected parties met from April 2000 to May 2001 and drafted a series of recommendations and a position statement; and

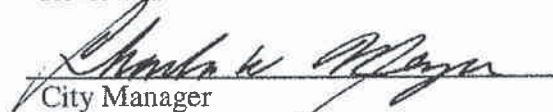
WHEREAS, the City Council desires to support the work of the task force and establish a strategy for directing our efforts regarding rail issues.

NOW THEREFORE LET IT BE RESOLVED THAT, The City Council of the City of St. Louis Park hereby adopts the recommendations of the Railroad Task Force, attached as Exhibit A to this resolution, and states the intent of the City to direct efforts toward the implementation of the strategies contained in the recommendations.

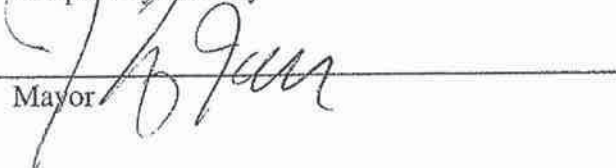
LET IT BE FURTHER RESOLVED THAT, The City Council will re-evaluate these strategies should significant changes in rail traffic, or assumptions about rail traffic, occur in the future.

Adopted by the City Council of the City of St. Louis Park, Minnesota, on October 15, 2001.

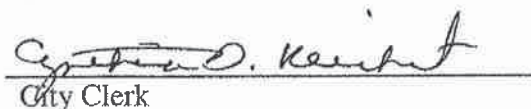
Reviewed for Administration:


City Manager

Adopted by the City Council October 15, 2001


Mayor

Attest:


City Clerk



St. Louis Park Railroad Advisory Task Force Position Statement Summary

The Task Force recommends that freight rail traffic through St. Louis Park should be through traffic only. The Task Force is opposed to introducing any additional rail traffic through the City of St. Louis Park.

All railroad blocking operations should be eliminated in St. Louis Park, Hopkins, and Minnetonka. This should be accomplished by constructing a switching yard west of these three cities.

Construct a southern connection and associated mitigation in the Oxford industrial area based upon a design study that allows for a direct connection of the east-west to north-south rail lines, that has the least effect on the adjacent neighborhoods, and that allows the ability to build the northern connection.

Freight rail traffic from the west headed for St. Paul should continue to travel through the Kenilworth Corridor in Minneapolis unless and until such time as a viable form of mass transit displaces it. The Task Force recognizes that other entities are evaluating the use of the Kenilworth Corridor to be used for mass transit. This Task Force recommends that these entities also evaluate other corridors, specifically the Highway 100 right-of-way be evaluated for mass transit.

The City should proceed with negotiating with all relevant parties to effect the above, seek funding from possible sources, conduct environmental studies, prepare plans to mitigate impact of increases in rail traffic, evaluate structural capacity and safety of existing railroad infrastructure, and implement a "quiet zone".

If at a future date, it is determined that the Kenilworth Corridor is the most feasible route for mass transit and that freight rail and a mass transit system cannot coexist in that corridor, freight rail traffic will be re-routed through St. Louis Park. This is to be accomplished by constructing a northerly connection on the Golden Auto Site and a connection on the iron triangle property. All environmental mitigation must be completed according to the environmental studies prior to re-routing.

The City Council should re-evaluate this strategy if significant changes in rail traffic patterns occur.

Position Statement
Agreement and Understanding of Affected Neighborhoods
of
The St. Louis Park Railroad Advisory Task Force

Proposed Strategy Plan

Based on all material reviewed, the St. Louis Park Railroad Advisory Task Force recommends that the City of St. Louis Park Council initiate the following actions:

Immediate Action

1. The Twin Cities & Western Railroad Company's freight rail traffic to and from the terminals in St. Paul will continue to be routed over its present course through the Kenilworth Corridor.
2. Negotiation of an agreement between the City of St. Louis Park, the Hennepin County Regional Rail Authority, Canadian Pacific Railway, Burlington Northern Santa Fe, and Twin Cities & Western Railroad to maintain TC&W St. Paul freight rail traffic through Kenilworth unless and until such time as freight rail is displaced by some means of mass transit. The agreement must contain the following elements in order to permit re-routing of traffic from Kenilworth to St. Louis Park:
 - In order to trigger re-routing of freight rail traffic, a study must be completed that evaluates other corridors (specifically including the Highway 100 corridor with an eastbound connection either via the Burlington Northern Santa Fe right-of-way, or the I-394 right-of-way). The study must identify the Kenilworth Corridor as the most feasible route for mass-transit.
 - The means of mass transit must physically displace freight rail traffic (light rail transit, heritage trolley, express busway, etc.). Commuter rail is not included in this definition since commuter trains use the same infrastructure as freight rail trains. The study must further conclude that there is no reasonable way to accommodate both freight rail and mass transit within the Kenilworth Corridor in order to trigger re-routing.
 - The mass transit must be a significant form of regional mass transit capable of transporting large numbers of commuters between Minneapolis and the southwest suburbs or greater areas. Transportation intended for recreational use is excluded.
 - In order to implement mass transit in Kenilworth, the project must include sufficient funds to pay for the following items:
 - a) Noise, safety, and additional environmental mitigation of the segments in St. Louis Park that will be exposed to increases in rail traffic to the levels defined by the environmental studies performed under items #10 and #11 below.
 - b) The construction of a south connection, if such has not already been constructed, in compliance with the most feasible routing alternative determined per paragraph 3 of this document, if necessary for freight rail traffic to reach Savage.
 - c) The construction of a north connection across the Golden Auto Site, and a connection to the BNSF line on the iron-triangle property, if necessary to permit freight rail traffic to reach St. Paul.

Position Statement Summary

May 23, 2001

Page of 10

3. Completion of a study reviewing the engineering and financial feasibility of the construction of the south connection. The major components of the study shall include:
 - Real estate purchases and business relocations;
 - Impact to Methodist Hospital by an at-grade crossing of Louisiana Avenue;
- Identifying the environmental impacts to the adjacent communities, and determining the route that has the minimum impact to these communities;
- Evaluating alternatives to assure that a north connection across the Golden Auto Site can still be funded and constructed if the south connection is built;
- Evaluating the alternatives to assure that the south connection will allow rail traffic to continue through the Kenilworth route if a north connection is also constructed without obstructing the HCRRA transit corridor;
- Conducting neighborhood meetings to present the study to the affected neighborhoods to gain their support.

The study should consider the following options:

- a) A direct connection to the north-south track from the east-west track in the north-east corner of the industrial park (Avoids all at-grade crossings, and removes the entire existing switching wye).
 - b) Extending the west-end of the existing switching wye track to connect to the east-west track (Includes an at-grade crossing of Louisiana Avenue and creates a new crossing of Oxford Street. Includes removal of the north leg of the switching wye).
 - c) Extend the south leg of the existing switching wye track to connect to the east-west track east of the Louisiana Avenue bridge (Creates an at-grade crossing of Oxford Street and includes the removal of the north leg and west stub of the switching wye).
 - d) By any other feasible means.
4. If the study described under #3 above finds a south connection to be feasible, purchase right-of-way for the connection including business condemnation/relocation, and construct the south connection according to the recommendation of the study.
 5. If and when a south connection is built, negotiate an agreement with the Canadian Pacific and Twin Cities & Western Railroad Companies that would grant the City the power to review potential changes in rail traffic patterns and/or rail users over this proposed rail connection. The City would reserve the right to deny additional rail traffic if alternative routes were available, or to require the operating rail company to fund mitigation to maintain environmental impacts at their existing levels.
 6. If and when a south connection is built, negotiate an agreement with the Canadian Pacific Railway to facilitate the removal of track and abandonment of railroad rights-of-way on the portions of the existing switching wye that are to be removed (as defined by the study under item #3 above). This agreement must also provide for eliminating rail service to any businesses served by the wye track.
 7. Construction of a switching yard outside of the cities of St. Louis Park, Hopkins, and Minnetonka and removal of all sidetrack through these cities (with the exception of the sidetrack to remain for run-around/passing track as determined by the study under item #3 above).

If public funding subsidizes construction of the switching yard, negotiate an agreement that requires rail car storage and blocking operations to be performed outside of the cities of St. Louis Park, Hopkins and Minnetonka. The agreement will allow no exceptions based upon future railroad growth or infrastructure deployment. The agreement must prohibit storage, blocking or switching of railroad cars on the run-around/passing track, and all other locations in these cities.

8. Acquisition and environmental cleanup of all or part of the Golden Auto Site through the use of the Hennepin County Environmental Response Fund. The property would be platted such that sufficient right-of-way in the southeast portion of the site would be owned by the Hennepin County Regional Rail Authority and is reserved for a future rail interconnect. The remainder, if any, of the site would either be retained as a potential transit station site, or sold for private development, as determined by the City of St. Louis Park.
9. Negotiate an agreement with the Minnesota Department of Transportation (MnDOT) to reconstruct the Highway 100 freight rail bridge if the Highway 100 reconstruction project is implemented before such time as freight rail is displaced in the Kenilworth Corridor.

This agreement should also include a provision where if the freight rail is eliminated from Kenilworth prior to the Highway 100 reconstruction project, the money savings realized by MnDOT to avoid constructing a freight rail bridge (including any temporary construction elements) will be completely turned over to fund railroad mitigation in St. Louis Park.

10. Complete an environmental analysis of the rail segments in St. Louis Park and Minneapolis that will accomplish the following:
 - Identify and model the environmental impacts of the existing and proposed rail traffic (including, but not limited to, impacts on the residential homes adjacent to the track; the impact of the railroad on the St. Louis Park High School; air, noise, and vibration impact; and street-railroad crossing impacts);
 - Study the environmental impacts along the Kenilworth corridor and determine the appropriate mitigation measures for railroad and/or other transit activities;
 - Study wetland and wildlife impacts from proposed rail construction and rail traffic;
 - Identify a series of mitigation steps that can be implemented based on levels of impact; (including but not limited to: upgrade track to seamless rail, landscaping, earthen berms, noise walls, home and school soundproofing, and removal of homes)
 - Develop a finance plan and identify funding source(s) for the various mitigation steps.
11. Assist the St. Louis Park School Board in assessing safety, noise, or other impacts introduced by additional rail traffic to the High School and Peter Hobart School. The assessment must include analysis of pedestrian and vehicular safety at the grade crossing of Dakota Avenue and Library Lane. The study should recommend physical mitigation measures, and revisions to school evacuation procedures. Identified mitigation measures must be implemented prior to freight rail traffic being re-routed through St. Louis Park.
12. Evaluate the existing St. Louis Park Railroad infrastructure for assessment of structural capacity (i.e. rail, bridge and street crossings). Compare the findings to the short-term and long-term expected railroad traffic projections, and recommend structural improvements if required. This assessment should be performed by an outside party, and not by the railroad companies. The railroad companies or parties not including the City of St. Louis Park will be responsible for funding the required improvements.

13. The City of St. Louis Park, in cooperation with the Cities of Minneapolis, Hopkins, and Minnetonka should evaluate the implementation of a southwest regional "Quiet Zone". The evaluation should analyze the existing at-grade intersections and determine which improvements would be cost-effective to implement a "Quiet Zone" according to the new FRA Regulations. The key elements in the evaluation should be:
 - Pedestrian safety considerations (including evaluating the installation of fencing along the tracks adjacent to residential areas and pedestrian bridges at appropriate locations)
 - Noise impacts of crossing bells vs. train horns.
 - Cost estimates and identification of funding sources.
 - Physical improvements (street closure, signal installation, safety barriers, and other geometric improvements).
14. The City of St. Louis Park should distribute this Official Position Statement to MnDOT, Met Council, and any other entities considering light rail transit, busways, and other mass transit options in the Kenilworth Corridor. These parties must be fully informed of the conditions that the City of St. Louis Park has established concerning re-routing of freight rail traffic through their communities, including the requirement to fund infrastructure improvements as well as the identified noise, safety, and other environmental mitigation measures.

Future Action

The Task Force is not in favor of accepting additional freight rail traffic over the any rail track segment in St. Louis Park as a result of re-routing the traffic; however, the Task Force has identified possible scenarios that may occur at some future date. Each scenario requires a specific set of actions if the above Immediate Actions are implemented.

Kenilworth Corridor – Transit Displacement

If freight rail is displaced by some viable form of mass transit (defined by #2 under Immediate Action above) freight rail traffic will be eliminated from the Kenilworth Corridor and re-routed on the north-south line through St. Louis Park. In such case, the Task Force recommends the following actions:

1. Implement the environmental mitigation measures that are recommended by the studies defined under items #10 and #11 under Immediate Actions.
2. Construct a connection to the north with a bridge over the HCRRA right-of-way to provide a through movement for the TC&W St. Paul trains. A southern connection must be in place or be constructed concurrently to assure that rail traffic to/from Savage does not back-up into the northern neighborhoods.
3. Construct the iron triangle connection.
4. Remove the existing freight rail track in the Kenilworth corridor.
5. Remove the existing freight rail track east of the north/south line in St. Louis Park, including the full length of the run-around/passing track and Bass Lake Yard. Canadian Pacific Railway rights-of-way will be purchased by Hennepin County Regional Rail Authority.

6. If the freight rail traffic is re-routed prior to the reconstruction of Highway 100, the cost savings realized by MnDOT to construct a bridge for light rail transit in lieu of a freight rail bridge will directly be passed along to St. Louis Park to fund environmental mitigation.

Commuter Railroad from the South

If the Dan Patch commuter rail project is implemented, the iron triangle connection would be constructed to carry commuter trains into Minneapolis. If this occurs while freight rail traffic is still being routed through Kenilworth, the Task Force recommends that the City of St. Louis Park take the following action:

1. Maintain the Twin Cities & Western Railroad Company's freight rail traffic to and from the terminals in St. Paul over its present course through the Kenilworth Corridor, until such time as that freight rail traffic is displaced by mass transit.

Whether freight rail traffic is being routed through Kenilworth or St. Louis Park, the Task Force recommends that the City of St. Louis Park take the following action:

1. St. Louis Park City work closely with MnDOT on the planning of the commuter rail line to assure that the appropriate mitigation measures are implemented to limit the effects of the environmental impacts from the projected rail traffic.

Rail Traffic from West to North

The Official Position Statement of the St. Louis Park Railroad Advisory Task Force is based on the anticipated shift of the Twin Cities & Western Railroad's river traffic from its current market to the north (Camden), to the south (Savage). It is possible that economic conditions may change and the Camden traffic may continue or increase. If the Camden traffic increases and/or if other new rail traffic coming from the west to the north exceeds projected volumes, the following actions may be taken:

1. If conditions reach unreasonable levels, the neighborhood leaders from the southern affected neighborhoods (Brooklawns, Elmwood, South Oak Hill, Creekside, and Brookside), will contact the St. Louis Park City Council to initiate action.
2. Based on the severity of the problem and the anticipated duration, the City Council may implement one of the following series of actions:
 - A) Serious situation/Long-term Duration:
 - Request MnDOT, the HCRRA, and/or the railroad companies to construct a northern connection on the Golden Auto Site with a bridge over the HCRRA right-of-way.
 - Implement environmental mitigation along segments with additional rail traffic.
 - B) Serious situation/Temporary Situation:
 - City staff will work with TC&W to conduct operations in such a way where the impacts are minimal to the adjacent residents.
 - C) Less than serious situation/Long-term Duration:
 - City staff will work with TC&W on minimizing impacts to adjacent neighborhoods
 - Implement environmental mitigation measures, if necessary
 - D) Less than serious situation/Temporary Situation:
 - City staff will work with TC&W on minimizing impacts to adjacent neighborhoods

The St. Louis Park City Council will interpret the situation according to the above criteria.

Rail Traffic from South to East

Although there is no indication that freight rail traffic would be introduced on this path, the Task Force recommends the following actions to prevent northbound trains from using a new south or north interconnect to connect to the east-west line and proceed through Kenilworth. These actions would only be necessary if this additional traffic could not be obstructed by the agreement defined under Item #5 under the Immediate Actions.

1. Study the environmental impacts from the additional traffic to determine if impacts from projected volumes would exceed reasonable levels.
2. If the conditions reach unreasonable levels, The City Council may take one of the following actions, based on the severity of the problem and the anticipated duration:
 - A) Serious situation/Long-term Duration:
 - Study alternate routes to determine if there is a feasible route that could entirely avoid, or minimize the additional rail traffic through St. Louis Park. The selected route should not include an east connection in St. Louis Park, or allow trains to perform switching movements that involve stopping or backing of trains.
 - Implement environmental mitigation on segments with increased rail traffic.
 - B) Serious situation/Temporary Situation:
 - City staff will work with the operating rail company to conduct operations in such a way where the impacts are minimal to the adjacent residents.
 - C) Less than serious situation/Long-term Duration:
 - City staff will work with the operating rail company to minimize impacts to adjacent neighborhoods.
 - Implement environmental mitigation measures on segments with increased rail traffic.
 - D) Less than serious situation/Temporary Situation:
 - City staff will work with the operating rail company to minimize impacts to adjacent neighborhoods

The St. Louis Park City Council will interpret the situation according to the above criteria.

Attachments to this Position Statement

- (A) List of Advisory Task Force members;
 - (B) Chronology of meetings, field trips and neighborhood meetings since the initiation of the Task Force;
 - (C) Financing Plan.
-

St. Louis Park Railroad Advisory Task Force Members List

Neighborhoods

Birchwood: P. Gardner/S. Silvernail
Blackstone: Gerri Nassen
Bronx Park: Ruth Bergene
Brookside: Dee Welsh
Brooklawns: Scott Lorentz
Cedarhurst: Jerry Stamm
Eliot View: Tom Powers
Elmwood: John Basill
Lake Forest: Lynne Carper
Bronx Park: Kim Daniels
Sorenson: Jami LaPray
Minneapolis: George Puzak

City of St. Louis Park Staff

Councilmembers: Sue Sanger
Sue Santa
Chris Nelson
City Manager: Charlie Meyer
Planning: Judie Erickson
School Board: Joel Koch

Consultants

Project Managers: Dick Koppy/Lee Koppy
Rail Design: Roger Anderson
Environmental: Eric Hansen
Noise: David Braslau

Hennepin County

Commissioner: Gail Dorfman/Kate Walker
HCRRRA: Gary Erickson/Warren Potter

Other Affected Cities

Minneapolis: John Wertjes
Minnetonka: Desyl Peterson

Railroad Companies

TC&W: Dan Rickel
Canadian Pacific: Mark Nordling
BNSF: Brian Sweeney

MnDOT

Railroad/Waterway: Robert Swanson
Hwy 100 Design: Wayne Norris

Multi-Modal: Kate Garwood
Commuter Rail: Gabe Guevara

"Kevin Locke"

I am readi

SAFETY IN THE PARK – CHAPTER 1 APPENDIX – DOCUMENT 3

From: "Kevin Locke" <klocke@stlouispark.org>
To: <la.Xiong@co.hennepin.mn.us>, "Meg McMonigal" <mmcmmonigal@stlouispark.org>, <timothy.spencer@state.mn.us>, "Dahlberg, Peter (DOT)" <Peter.Dahlberg@state.mn.us>
Cc: <Katie.Walker@co.hennepin.mn.us>, <Jeanne.Witzig@kimley-horn.com>, "Meg McMonigal" <mmcmmonigal@stlouispark.org>
Date: 07/20/2010 03:23 PM
Subject: RE: History on Freight Rail Relocation

I am reading through the handout and will get back to you as I can. Couple quick general comments:

One, it is absolutely critical that the handout be accurate and something that the authors, which I assume are Hennepin County, can stand behind. I would expect that many readers will scrutinize the language and meaning of each phrase and word; and, potentially challenge some of it. I would note that the opening paragraph sure seems to say, the HCRRA is responsible for finding TCW an alternative route to St. Paul; and, while routing TCW through Kenilworth may have been expected to be temporary, it is permanent until HCRRA provides another route.

I also suspect that some people will want to know what was the "analysis" in the 1990's that determined that the MNS line through SLP was the "preferred location" for TCW traffic and who made the decision? Does the analysis still exist in a document somewhere? Is there a record of the decision to choose the

SAFETY IN THE PARK – CHAPTER 1 APPENDIX – DOCUMENT 4



Aug. 27, 2012

Dear Resident or Business Owner:

We wanted to let you know about an upcoming freight rail track replacement project taking place this fall in the Kenilworth Corridor.

Scheduled to start in mid-October, the Hennepin County Regional Railroad Authority (HCRRA) is replacing a two-mile stretch of freight rail track within its Kenilworth Corridor from Interstate 394 to just east of Beltline Boulevard. The current freight rail track is aging and wasn't designed for modern freight operations. To ensure ongoing safe operations within the corridor, the HCRRA made the choice to replace the track instead of doing ongoing repairs.

The replacement rails will arrive by train; we estimate their arrival in Minnesota sometime the week of September 10. Rail replacement is scheduled to start mid-October and, weather permitting, should be completed within a month.

What can you expect to see happening in the Kenilworth Corridor?

- Upon arrival, a machine will convey the 1,500-foot to 1,800-foot rails from the train car and place them parallel to and near the existing track. Minor delays are expected at the intersections of West 21st Street and Cedar Lake Parkway when the rail is being unloaded from the train.
- Workers and equipment will be in the corridor mid-October cutting and welding the freight rail track into place. We expect their daily schedule to be between 7 a.m. – 7 p.m. and will do everything possible to minimize any activity after dark.
- There are no plans for detours or closures where the Kenilworth Corridor intersects with West 21st Street and Cedar Lake Parkway, and we do not expect any impacts to the Cedar Lake Bike Trail. Twin Cities & Western Railroad Company will maintain regular freight operations in the corridor during the replacement project.

Upon completion of the rail replacement, there is no plan to increase train speeds. The new continuously welded rail will result in smoother operations for freight trains passing along this portion of the corridor.

This project is not related to the Metropolitan Council's future decision on the final location of freight rail operations. That decision will be considered as planning for the Southwest Light Rail Transit line advances.

If you would like to speak to someone about this project, please contact Phil Eckhert (HCRRA) at 612-348-6445, email Phil.Eckhert@co.hennepin.mn.us or Tim Jeske, (TC&W Railroad) at 302-510-0407, email tjeske@tcwr.net.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip C. Eckhert'.

Philip C. Eckhert
Director
Housing, Community Works and Transit Department
Hennepin County

A handwritten signature in black ink, appearing to read 'Mark J. Wegner'.

Mark Wegner
President
Twin Cities & Western Railroad
Minnesota Prairie Line, Inc



Hennepin County News

Public Affairs • 612-348-3848 • 300 S. 6th St., Minneapolis, MN 55487-0011

Aug. 27, 2012

Contact: Phil Eckhert, HCWT Department Director: 612-348-6445
Tim Jeske, TC&W Railroad: 302-510-0407
Cara Lee, Public Affairs: 612-348-6883

Freight rail track replacement project scheduled for mid-October

The Hennepin County Regional Railroad Authority (HCRRA) is replacing a two-mile stretch of freight rail track within its Kenilworth Corridor from Interstate 394 to just east of Beltline Boulevard.

The current freight rail track is aging and wasn't designed for modern freight operations. To ensure ongoing safe operations within the corridor, the HCRRA made the choice to replace the track instead of doing ongoing repairs.

The replacement rails are scheduled to arrive by train in Minnesota sometime the week of Sept. 10. Rail replacement should commence in mid-October and, weather permitting, be completed within a month.

What can you expect to see happening in the Kenilworth Corridor?

- Upon arrival, a machine will convey the 1,500-foot to 1,800-foot rails from the train car and place them parallel to and near the existing track. Minor delays are expected at the intersections of West 21st Street and Cedar Lake Parkway when the rail is being unloaded from the train
- Workers and equipment will be in the corridor mid-October cutting and welding the freight rail track into place. We expect their daily schedule to be between 7 a.m. – 7 p.m. and will do everything possible to minimize any activity after dark.

– more –

Freight rail track/2

- There are no plans for detours or closures where the Kenilworth Corridor intersects with West 21st Street and Cedar Lake Parkway, and we do not expect any impacts to the Cedar Lake Bike Trail. Twin Cities & Western Railroad Company will maintain regular freight operations in the corridor during the replacement project.

Upon completion of the rail replacement, there is no plan to increase train speeds. The new continuously welded rail will result in smoother operations for freight trains passing along this portion of the corridor.

This project is not related to the Metropolitan Council's future decision on the final location of freight rail operations. That decision will be considered as planning for the Southwest Light Rail Transit line advances.

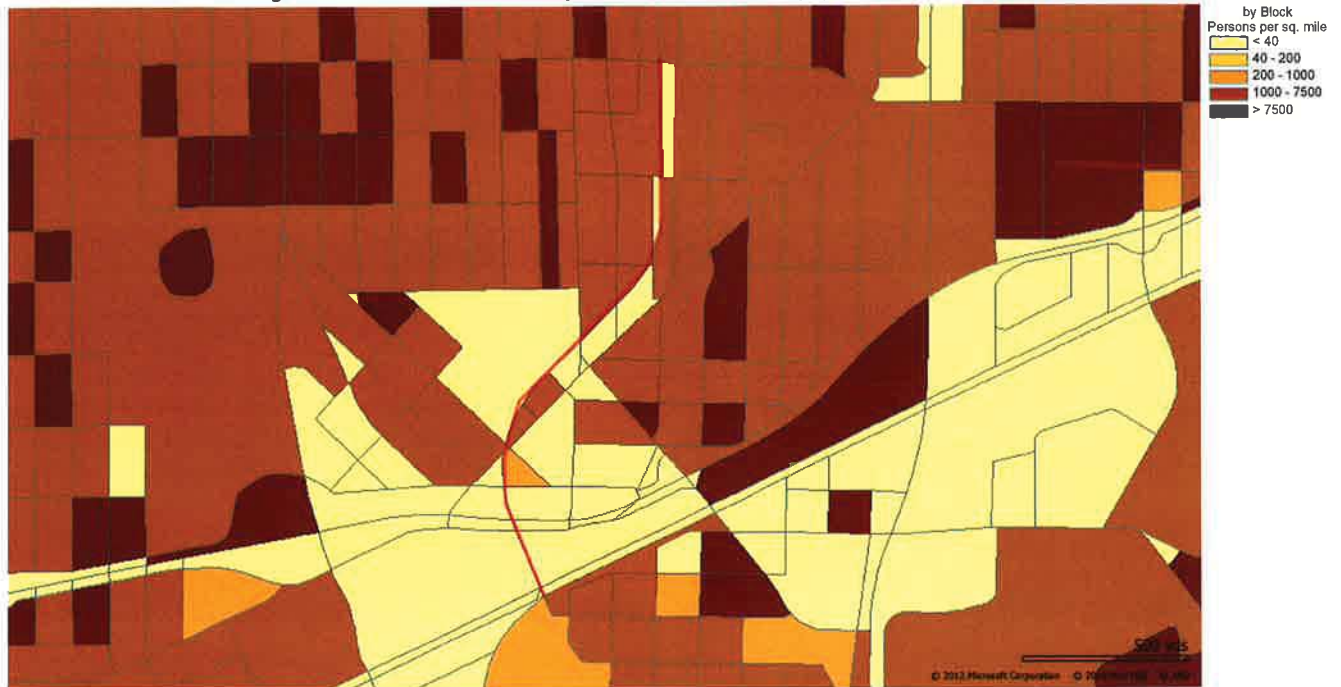
SAFETY IN THE PARK!

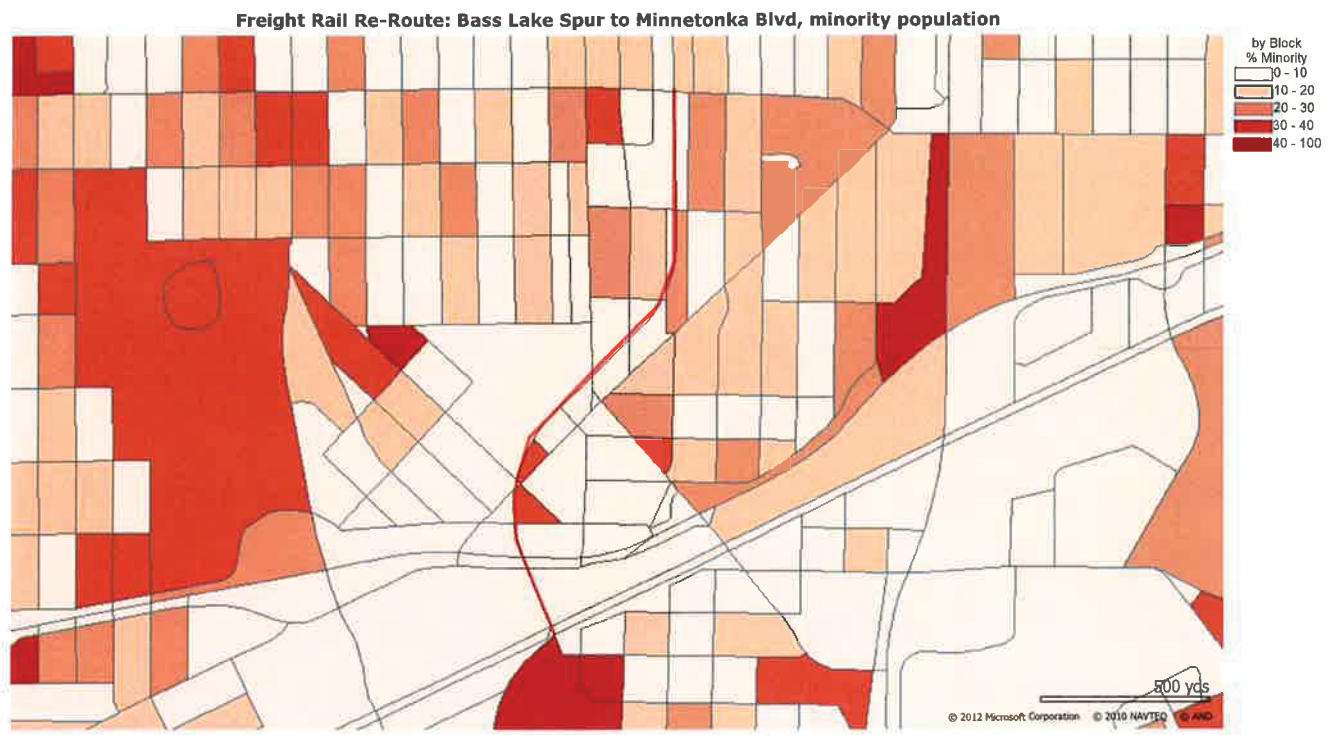
APPENDIX

CHAPTER 4 DOCUMENTS



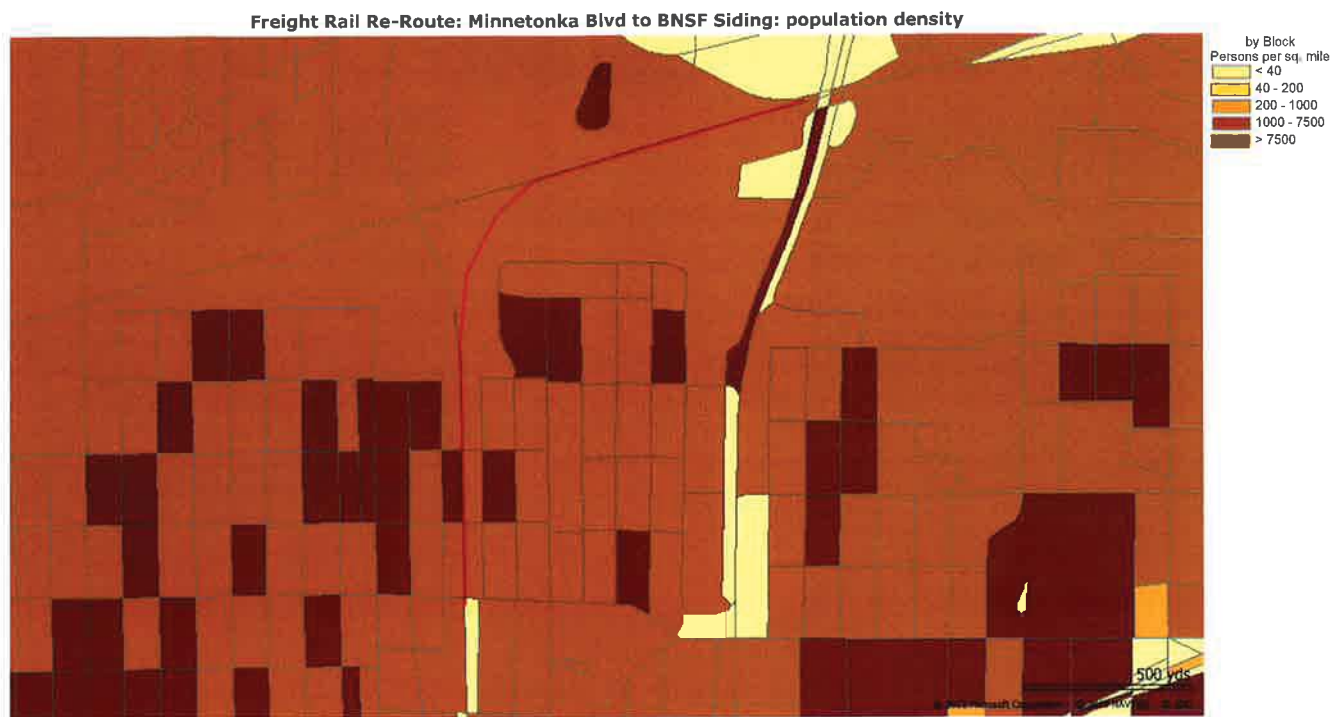
Freight Rail Re-Route: Bass Lake Spur to Minnetonka Blvd, population density

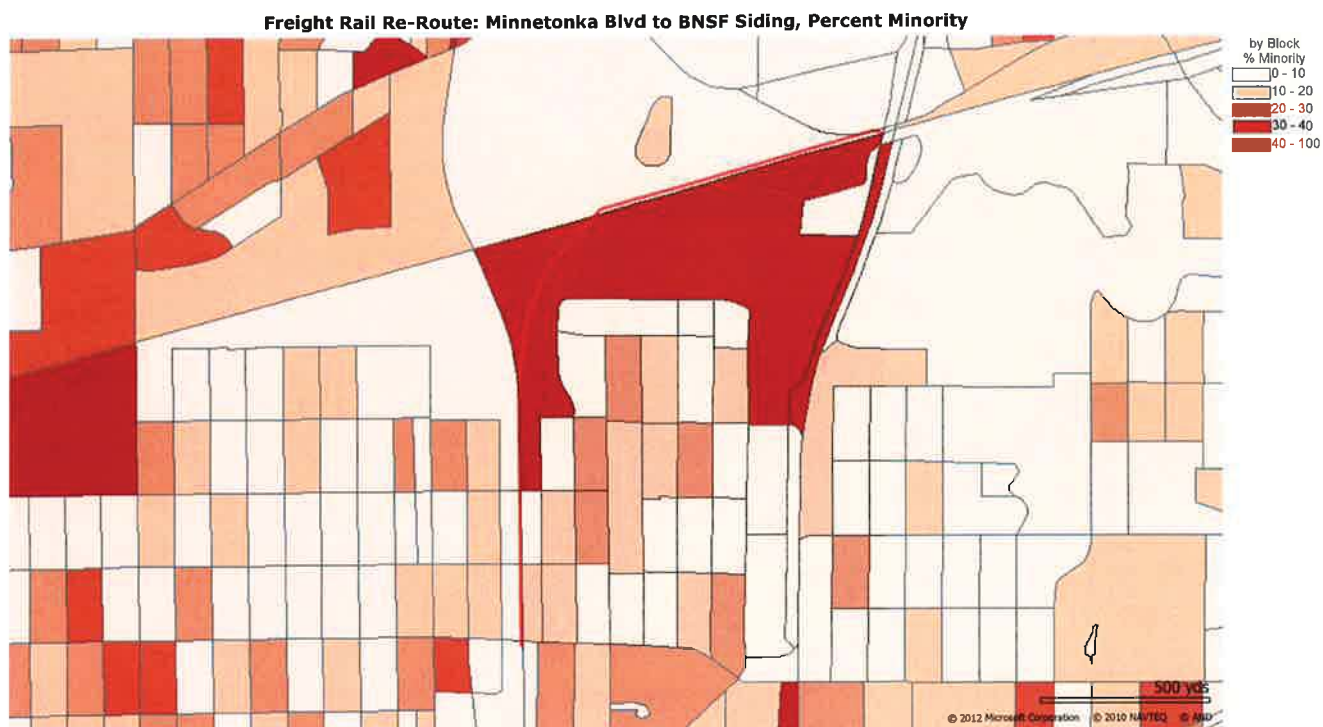


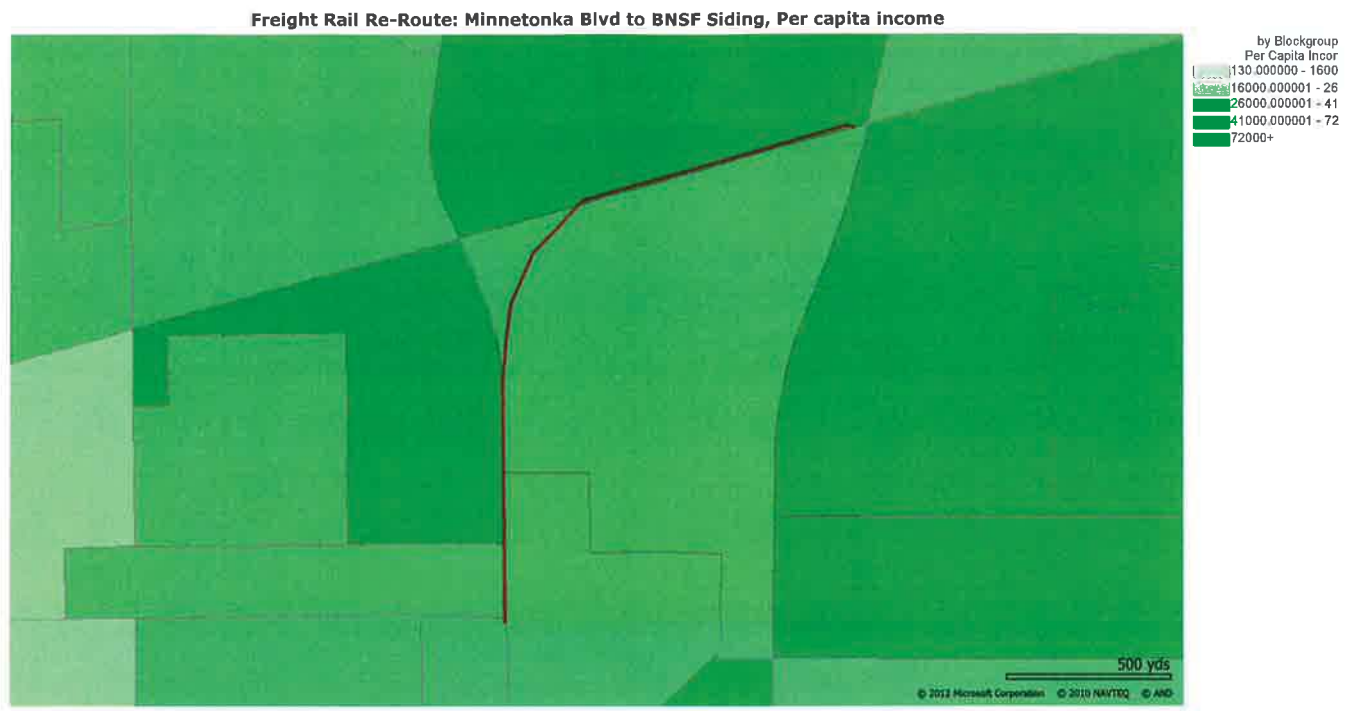








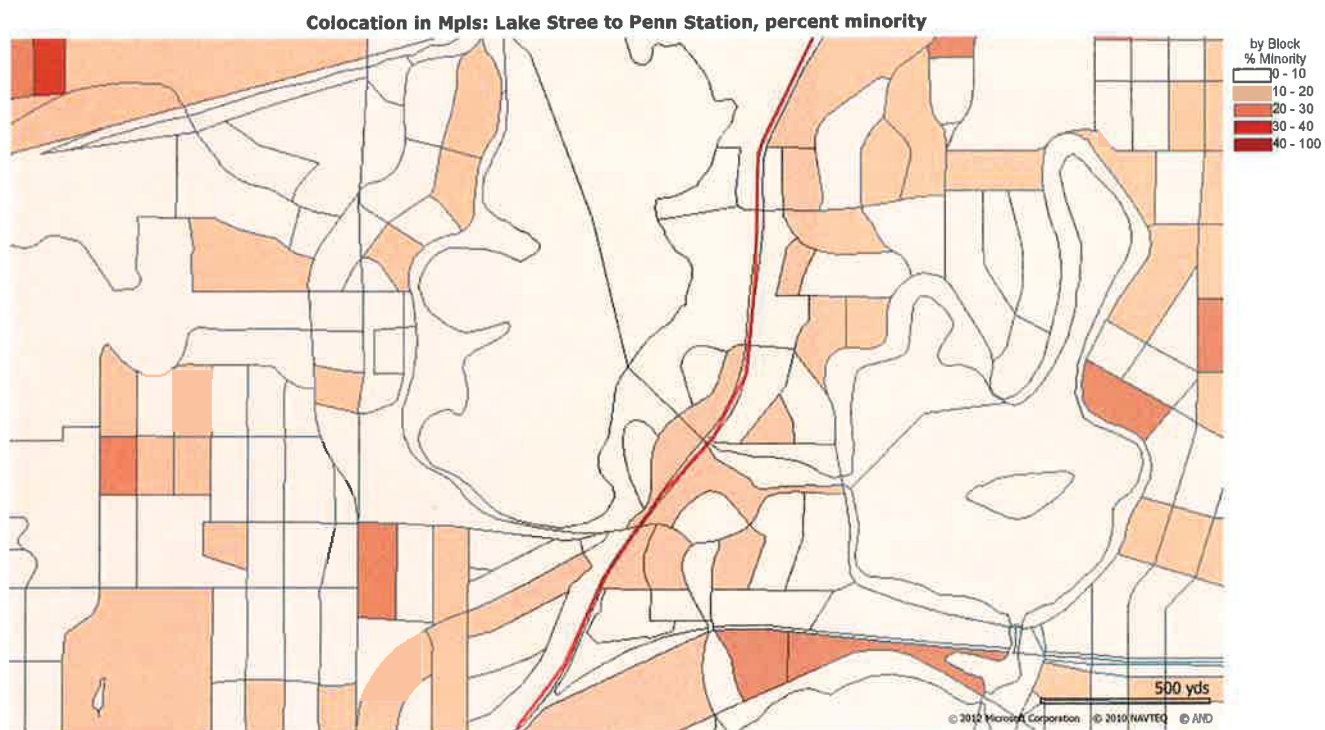


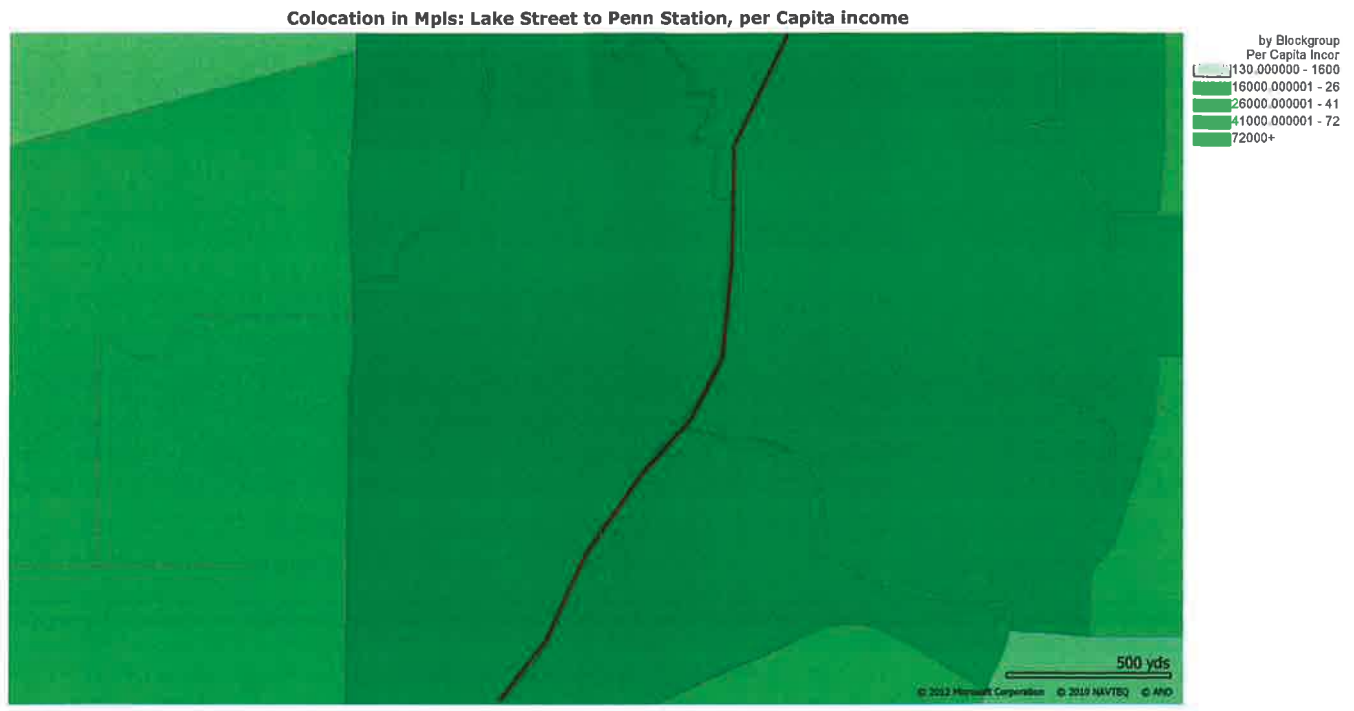




Colocation in Mpls: Lake Street to Penn Station, population density







Supporting data



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

MICHAEL O. FREEMAN COUNTY ATTORNEY

December 19, 2011

VIA ELECTRONIC MAIL

Patrick Whiting
Assistant Attorney General
Minnesota Attorney General's Office
Bremer Tower, Suite 1800
445 Minnesota Street
St. Paul, MN 55101-2134

Dear Pat:

This is to notify you that the Board of the Hennepin County Regional Railroad Authority passed the following resolution today:

"BE IT RESOLVED, that the HCRRA Board directs staff to notify the Minnesota Department of Transportation that, in light of direction from the Federal Transit Administration regarding the Southwest LRT project (and only for purposes of completing the Southwest LRT project): (1) the Hennepin County Regional Railroad Authority has determined that freight rail relocation no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project under state law; (2) HCRRA will amend the DEIS to include freight line relocation in the scope of the Southwest LRT project; and (3) freight rail location either to the MN&S corridor or within the Kenilworth Corridor will be included as an element of that overall Southwest LRT project that will be subject to environmental review under state and federal environmental law."

Sincerely,

A handwritten signature in black ink, appearing to read "Howard R. Orenstein", written over a horizontal line.

HOWARD R. ORENSTEIN
Sr. Assistant Hennepin County Attorney
Telephone: (612) 348-4618
FAX: (612) 348-8299



Minnesota Department of Transportation

395 John Ireland Boulevard
Saint Paul, MN 55155

Supporting data
Pg 1 of 2

December 20, 2011

To Whom It May Concern:

RESOLUTION

WHEREAS, a project consisting of track improvements to the existing Canadian Pacific (CP) Bass Lake Spur, CP Minneapolis, Northfield & Southern (MN&S) Spur, and the Burlington Northern Santa Fe (BNSF) Wayzata Subdivision in the City of St. Louis Park was proposed to accommodate the relocation of the Twin Cities and Western (TC&W) freight rail traffic currently operating in the Kenilworth Corridor in Minneapolis (Proposed Freight Project); and

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) was the Proposer of the Proposed Freight Project, as the term "Proposer" is defined by Minn. R. 4410.0200, subp. 68 (2011); and

WHEREAS, the Minnesota Department of Transportation (MnDOT) was the Responsible Governmental Unit (RGU) for the Proposed Freight Project pursuant to Minn. R. 4410.0500, subp. 2 (2011), and as the term "RGU" is defined by Minn. R. 4410.0200, subp. 76 (2011); and

WHEREAS, MnDOT prepared an Environmental Assessment Worksheet (EAW) for the Proposed Freight Project pursuant to Minn. R. 4410.1400 (2011), and as the term "Environmental Assessment Worksheet" is defined by Minn. Stat. § 116D.04, subd. 1a(c) (2011) and Minn. R. 4410.0200, subp. 17 (2011); and

WHEREAS, MnDOT published notice of the completion of the EAW for the Proposed Freight Project and provided copies of the EAW to the Minnesota Environmental Quality Board and its member agencies, and received and responded to comments on the need for an Environmental Impact Statement (EIS) following publication pursuant to the requirements of Minn. Stat. § 116D.04, subd. 2a(b) (2011), Minn. R. 4410.1500 (2011); Minn. R. 4410.1600 (2011); and

WHEREAS, MnDOT determined that the Proposed Freight Project does not have the potential for significant environmental impact pursuant to Minn. R. 4410.1700 (2011); and

An Equal Opportunity Employer



WHEREAS, MnDOT determined that an Environmental Impact Statement (EIS) was not required pursuant to the Minnesota Environmental Protection Act, Minn. Stat. § 116D.01, et seq. (MEPA), and accordingly issued and distributed a Negative Declaration on June 30, 2011, pursuant to Minn. R. 4410.1700 (2011); and

WHEREAS, on December 19, 2011, the HCRRA Board passed a resolution determining that the Proposed Freight Project no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project;

NOW THEREFORE, MnDOT hereby vacates the EAW for the Proposed Freight Project; and

NOW THEREFORE, MnDOT hereby vacates its Negative Declaration for the Proposed Freight Project; and

NOW THEREFORE, because the Proposed Freight Project is no longer being pursued as a standalone project by the Proposer, environmental review as a standalone project is no longer required; and

NOW THEREFORE, if any other project is proposed in the future, the need for a new environmental review will be evaluated in accordance with the provisions of the Minnesota Environmental Policy Act.



Frank Pafko
Chief Environmental Officer
Minnesota Department of Transportation

An Equal Opportunity Employer



Air Quality section Attachment A, pg 1 of 2

Freight Rail Re-Route: Bass Lake Spur to Minnetonka Blvd, population density



Air Quality Section, Attachment A pg 2 of 2

Freight Rail Re-Route: Minnetonka Blvd to BNSF Siding: population density

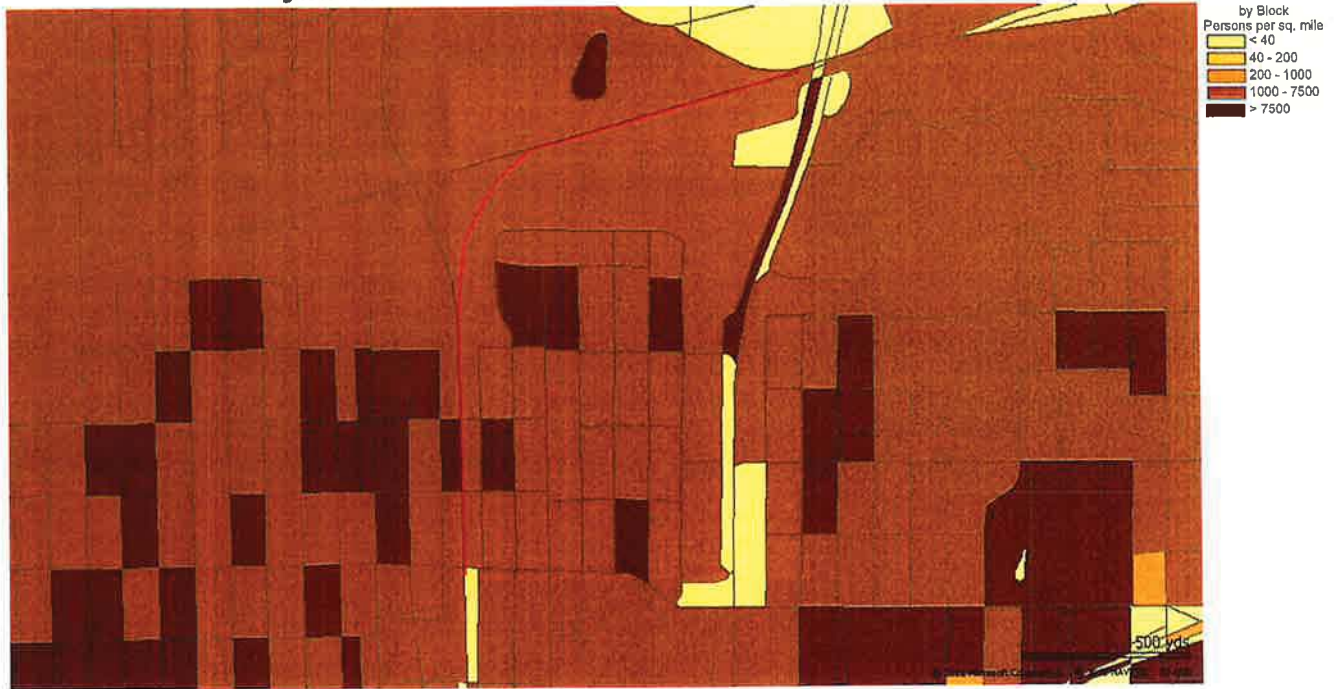
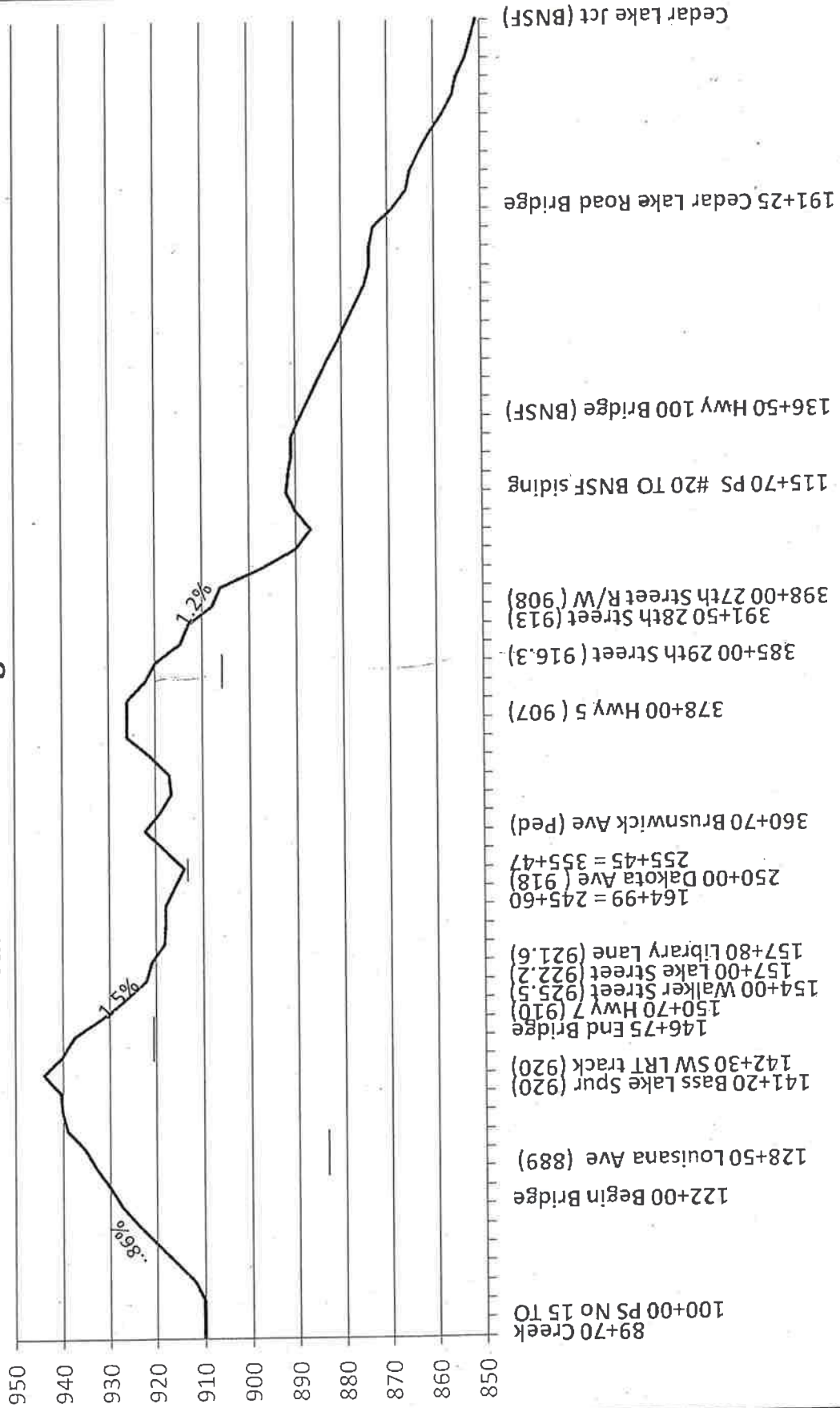


Table 2: MN&S Alignment Profile



APPENDIX F. COMPUTING MAXIMUM NOISE LEVEL (L_{\max}) FOR A SINGLE TRAIN PASSBY

This appendix provides procedures for the computation of L_{\max} for a single train passby, for those readers desiring such procedures. Table F-1 contains the equations to compute L_{\max} . The procedure is summarized as follows.

- Collect the following input information:
 - SEL_{ref} 's from Chapter 6, specific to both the locomotive type and car type of the train
 - N_{locos} , the number of locomotives in the train
 - N_{cars} , the number of cars in the train
 - L_{locos} , the total length of the train's locomotive(s), in feet (or $N_{locos}(\text{unit length})$)
 - L_{cars} , the total length of the train's set of rail car(s), in feet (or $N_{cars}(\text{unit length})$)
 - S , the train speed, in miles per hour
 - D , the closest distance between the receiver of interest and the train, in feet
- Compute $L_{\max,locos}$ from the locomotive(s) using the first equation in Table F-1.
- Compute $L_{\max,cars}$ from the rail car(s) using the second equation in Table F-1.
- Choose the larger of the two L_{\max} 's as the L_{\max} for the total train passby.

F-2 Transit Noise and Vibration Impact Assessment

Table F-1. Conversion to L_{\max} at the Receiver, for a Single Train Passby	
Source	Equation
Locomotives	$L_{\max, \text{locos}} = SEL_{\text{locos}} + 10 \log\left(\frac{S}{50}\right) - 10 \log\left(\frac{L}{50}\right) + 10 \log(2 \infty) - 3.3$
Rail Cars	$L_{\max, \text{cars}} = SEL_{\text{cars}} + 10 \log\left(\frac{S}{50}\right) - 10 \log\left(\frac{L}{50}\right) + 10 \log[2 \infty + \sin(2 \infty)] - 3.3$
Total Train	$L_{\max, \text{total}} = \max[L_{\max, \text{locos}} \text{ or } L_{\max, \text{cars}}]$
<p>D = closest distance between receiver and source, in feet</p> <p>L = total length of measured group of locomotive(s) or rail car(s), in feet</p> <p>S = vehicle speed, in miles per hour</p> <p>$\infty = \arctan\left(\frac{L}{2D}\right)$, in radians</p>	

Example F-1. Computation of L_{\max} for Train Passby

A commuter train will pass by a receiver of interest and its L_{\max} is desired. For this train, the following conditions apply:

$SEL_{\text{ref}} =$	92 dB for locomotives and
$=$	82 dB for rail cars
$N_{\text{locos}} =$	1
$N_{\text{cars}} =$	6
$S =$	43 miles per hour
$D =$	125 feet.

The locomotive and rail cars each have a unit length of 70 feet. Therefore,

$L_{\text{locos}} =$	70 feet
$L_{\text{cars}} =$	420 feet

Using the equations in Table F-1,

$\infty_{\text{locos}} =$	0.27
$\infty_{\text{cars}} =$	1.03

and the resulting L_{\max} 's are as follows:

$L_{\max, \text{locos}} =$	84 dBA
$L_{\max, \text{cars}} =$	74 dBA
$L_{\max, \text{total}} =$	84 dBA.

End of Example F-1



Project / Location: Curt Rahman - Train Vibration
Date: 13-Apr-2011

Ch3 - vertical

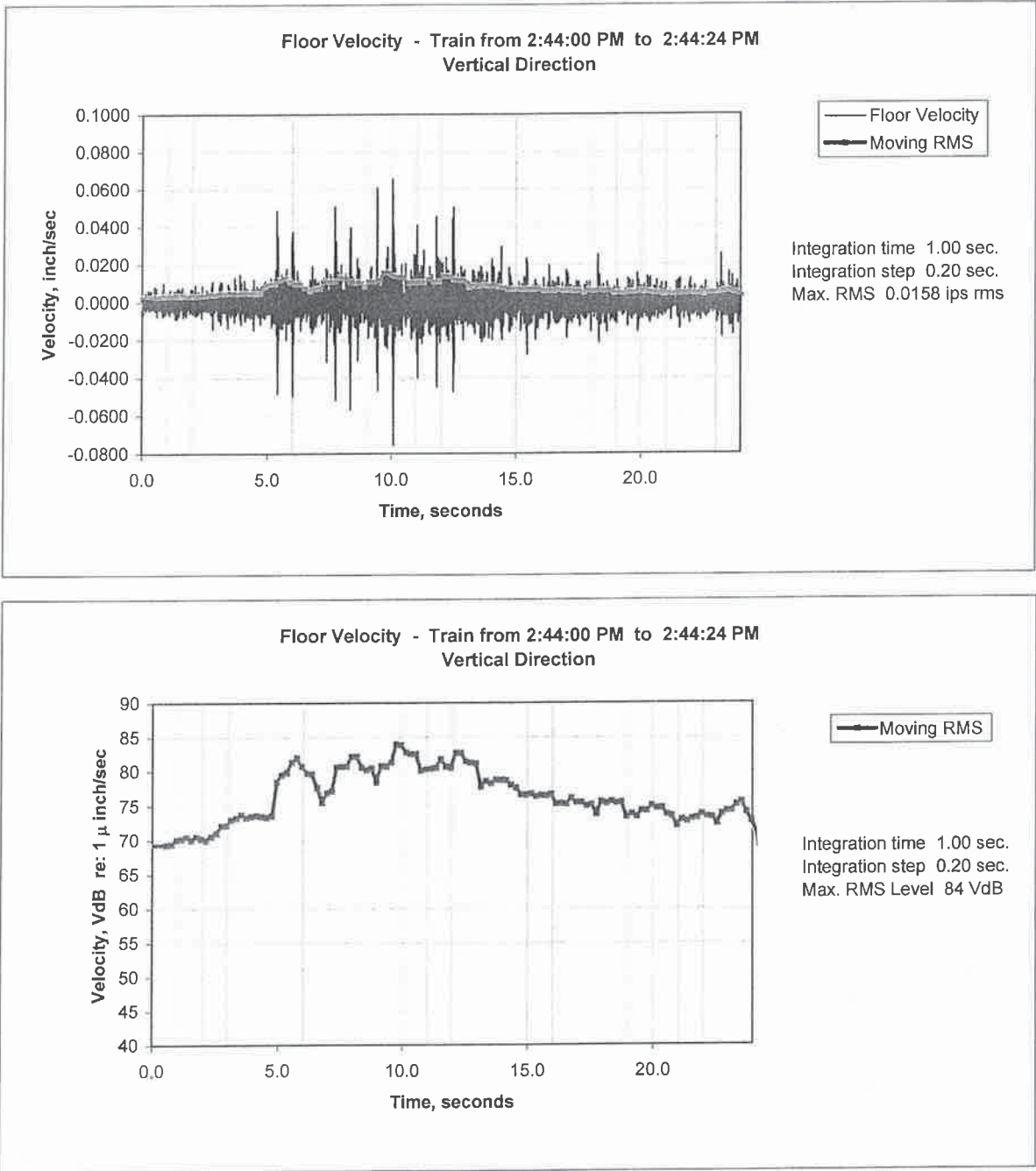


Figure 1

SAFETY IN THE PARK!

APPENDIX

CHAPTER 5 DOCUMENTS



U.S. Department
of Transportation
**Federal Transit
Administration**

Safety in the Park - Chapter 5 Appendix – Document 1

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2789
312-886-0351 (fax)

The Honorable Susan Haigh
Chairman
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101-1805

September 2, 2011

Re: Preliminary Engineering Approval for the Minneapolis Southwest Corridor Light Rail Project

Dear Ms. Haigh:

The Federal Transit Administration (FTA) is pleased to inform you that the Metropolitan Council's (MC) Southwest Corridor light rail transit (LRT) project located in the City of Minneapolis and Hennepin County has been approved into the preliminary engineering (PE) phase of project development of the New Starts program. This approval for the initiation of PE is a requirement of Federal transit law governing the New Starts program [40 U.S.C. Section 5309(c)(6)].

This PE approval is for an approximately 15.8-mile double track light rail line extending from the current Target Field station on the eastern end of the route in downtown Minneapolis through several suburban municipalities, including Minnetonka, Hopkins, St. Louis Park and terminating in Eden Prairie at Mitchell Road/Trunk Highway 5 on the western end of the route. The project includes construction of 17 new at-grade stations, 15 park-and-ride facilities with 3,500 total spaces, 26 light rail vehicles and a new rail maintenance facility. The project will operate in a dedicated surface transitway in the median of existing streets, with approximately 1.47 miles of elevated guideway via a flyover bridge over active Burlington Northern Santa Fe Railway freight tracks at Lyndale Junction in Minneapolis and 0.2 miles of tunnel where the LRT line will operate under existing streets near Target Field. The project will link to the existing Hiawatha LRT and the Northstar commuter rail lines and the Central Corridor LRT line, currently under construction, at Target Field and will share tracks with the Central Corridor on 5th Street in downtown Minneapolis, thus providing a one-seat ride from Eden Prairie to Union Depot in downtown St. Paul. The estimated capital cost of the project in year-of-expenditure dollars is \$1,250.48 million. MC is seeking \$625.24 million (50 percent) in Section 5309 New Starts funds. The Southwest LRT line is expected to carry 29,700 average weekday riders in 2030.

With this approval, MC has pre-award authority to incur costs for PE activities prior to grant approval while retaining eligibility for future FTA grant assistance for the incurred costs. This pre-award authority does not constitute an FTA commitment that future Federal funds will be approved for the project. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. FTA's approval to initiate PE is not a commitment to approve or fund any final design or construction activities. Such a decision must await the outcome of the analyses to be performed during PE, including completion of the environmental review process.

FTA is required by law to evaluate a proposed project against a number of New Starts criteria and ensure that prospective grant recipients demonstrate the technical, legal and financial capability to implement the project. Based on an evaluation of the Southwest LRT project against these criteria, FTA has assigned the project an overall rating of “*Medium*.”

FTA and its Project Management Oversight Contractor (PMOC) conducted a detailed review of the scope, schedule, cost and project risks of the Southwest LRT and the technical capacity and capability of MC to implement the project. FTA has determined that the project meets the requirements for entry into PE and that the MC possesses the technical capacity and capability to implement the project. Some of the key items that MC must address during PE include:

Project Scope

- Solidify the scope for an Operating and Maintenance Facility (OMF). It is unclear if a heavy OMF or a light OMF will be needed. MC must make a decision as early in PE as possible so the corresponding impacts can be properly evaluated during the environmental review process.
- In consultation with the Federal Railroad Administration (FRA), determine the design requirements for adequate safety features for street-grade crossings between the Southwest LRT line and existing freight rail tracks. During PE, MC must address any design standards that FRA requires such as crash walls or grade separations between the Southwest LRT and freight traffic prior to seeking entry into Final Design.
- Analyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned Southwest LRT route, in the project’s Environmental Impact Statement (EIS). Because the freight relocation is necessary for MC to be able to implement the Southwest LRT project as planned, the cost and scope of the freight line relocation must be included in the Southwest LRT project scope and budget, regardless of the funding sources that may be identified to pay for the work. This must be completed prior to seeking entry into Final Design.
- Analyze the reconfiguration of the Canadian Pacific Railroad’s freight tracks where they will be elevated over the Southwest LRT line and include the analysis in the Southwest LRT project’s EIS and cost and scope. The planned flyover, as currently designed by MC, shows sharp curvature, steep grades, and insufficient clearances. This must be completed prior to seeking entry into Final Design.
- Analyze the infrastructure needs, implementation schedule, and planned operations of the Interchange project as it may impact the design, cost, and operations of the Southwest LRT project. The evaluation must be completed prior to seeking entry into Final Design.

Project Schedule

- Based on the results of FTA’s pre-PE risk assessment, the schedule for the project is overly aggressive. MC currently projects a Revenue Service Date (RSD) of April 2017. FTA recommends a RSD no earlier than the first quarter of 2018. MC should work with FTA during PE to arrive at an agreed upon schedule.

- During PE, MC should develop a comprehensive third party coordination plan to address all stakeholder issues, particularly right-of-way acquisition plans, memoranda of agreement (if appropriate), and all requisite permits.

Project Cost

- MC should implement design-to-budget controls and procedures that would require the design team to continually monitor the affect of design development and evolution on the overall project cost, in conjunction with cost estimating activities.

Technical Capacity

- During PE, MC should revise the Project Management Plan (PMP) to specify that staff from the Central Corridor LRT project will also be used for the Southwest LRT project. The MC needs to ensure that adequate staff with the requisite technical expertise will be available to manage the Southwest LRT project's implementation.

Project Funding

The payout of FTA Section 5309 New Starts funds in MC's financial plan exceeds \$100 million per year from 2015 through 2017. Given the current uncertainty surrounding a timeframe for surface transportation reauthorization, the significantly reduced Fiscal Year (FY) 2011 budget for the New Starts program, and the current conversations in Congress surrounding development of the FY 2012 budget, MC should assume no more than \$100 million per year in annual New Starts funding. Given the considerable number of large, high cost projects currently in the New Starts pipeline, it is not possible for the program to provide significantly higher amounts than this on an annual basis to any one project should the program funding level remain at its FY 2011 level of \$1.6 billion. In the event the New Starts program's funding level increases prior to execution of a Full Funding Grant Agreement for the project, FTA will reconsider adjustments to the annual New Starts funding assumptions and coordinate with MC appropriately.

Civil Rights Compliance

Pursuant to the Civil Rights Act of 1964 and its implementing regulations, including FTA Circular 4702.1 (Title VI Program Guidelines for FTA Recipients, Part II, Section 114), FTA approved MC's Title VI program on March 17, 2011. MC must submit a Title VI program update at least 30 calendar days before the current Title VI approval expires on March 17, 2014.

MC has an approved Disadvantaged Business Enterprise goal (DBE). An updated DBE three-year goal is due to FTA on August 1, 2014. MC's most recent Equal Employment Opportunity Plan expires on November 11, 2013.

As project development continues, MC is reminded to ensure that the vehicles, stations and facilities are designed and engineered to ensure compliance with current standards for accessibility under U.S. Department of Transportation regulations implementing the transportation provisions of the Americans with Disabilities Act of 1990 (ADA). MC is advised to independently verify manufacturers' claims of ADA compliance, and to consult with FTA's Office of Civil Rights concerning ADA requirements as project development progresses. The Office of Civil Rights will provide MC a separate letter further detailing ADA compliance issues in the near future.

MC must work with FTA during PE to address the concerns identified above, along with any others that are identified as project development progresses. As PE proceeds, FTA will provide more detail to MC regarding other deliverables that should be completed prior to requesting approval to enter Final Design.

FTA looks forward to working closely with MC during the development of the Southwest light rail project. If you have any questions regarding this letter, please contact Cyrell McLemore of my office at (312) 886-1625.

Sincerely,



Marisol R. Simón

Safety in the Park - Chapter 5 Appendix – Document 2



ONE COMPANY | *Many Solutions*™

November 21, 2012

**Re: Southwest Light Rail Transit Draft Environmental Impact Statement
Notice of Correction to a Typographical Error in Chapter 8 Financial Analysis**

To All Interested Parties:

In the October 2012 Draft Environmental Impact Statement (DEIS), the Professional Services line item for the LRT 3A -1 (co-location alternative) in Table 8.1-1 Cost Estimate for Build Alternatives contains a typographical error which resulted in an understatement of the overall capital costs and per mile cost for the co-location alternative. In the published DEIS on page 8-2 of Chapter 8 Financial Analysis, the professional services cost in 2012 dollars for the LRT 3A-1 (co-location) alternative is shown as \$99,357 (in thousands) but should be \$199,357. The overall capital cost for the alternative is shown as \$1,071,770 (in thousands) but should be \$1,171,770. The per mile capital cost is shown as \$65,352 (in thousands) but should be \$71,449. The typographical error is corrected on the attached revised page 8-2 and does not alter the overall conclusions presented in the DEIS.

Please note that in Chapter 5 Economic Effects, page 5-3, table 5.1-1; Professional Services costs for the LRT 3A-1 (co-location) alternative are shown to be \$221,968,000 in year of expenditure (2015) dollars, which is equivalent to \$199,357,000 in current (2012) dollars.

Previous draft versions of Chapter 8 included the correct cost numbers. Editing and formatting of the document in response to Federal Transit Administration comments resulted in the typographical error.

HDR Engineering, Inc.

Addendum – Corrected Table 8.1-1

express bus routes and minor modifications to existing express bus service including an increase in service frequencies.

Table 8.1-1. Cost Estimate for Build Alternatives

Standard Cost Category	2012 Dollars (thousands)				
	LRT 1A	LRT 3A (LPA)	LRT 3A-1 (Co- location Alternative) ¹	LRT 3C-1 (Nicollet Mall)	LRT 3C-2 (11 th /12 th Street)
Guideway & Track Elements	176,352	218,044	185,353	384,245	399,984
Stations, Stops, Terminals, Intermodal	92,218	122,810	122,810	186,051	191,175
Support Facilities: Yards, Shops, Buildings	33,444	38,936	38,936	51,729	47,696
Sitework & Special Conditions	91,238	111,544	111,544	141,261	160,874
Systems	135,045	167,073	167,073	174,607	194,136
Right-of-Way, Land, Existing Improvements	56,543	117,629	142,601	129,093	129,093
Vehicles	87,560	96,778	96,778	138,253	129,036
Professional Services	160,913	203,458	199,357	294,850	313,154
Unallocated Contingency	94,068	118,364	107,318	160,746	167,251
Total Cost (2012 Dollars)	927,378	1,194,636	1,171,770	1,660,834	1,732,398
Total Length (Route Miles)	13.76	16.4	16.4	17.09	17.43
Cost per Mile (2012 Dollars)	67,397	72,843	71,449	97,181	99,392

Source: SCC Workbook, HDR, SEH, Kimley Horn, 2012

8.1.4 Capital Funding

The Metropolitan Council 2030 Transportation Policy Plan (TPP) assumes that for rail projects, the region will secure federal **New Starts** funds for 50 percent of the cost. The remainder of the cost is projected to be funded 30 percent with Counties Transit Improvement Board (CTIB) sales tax revenues, 10 percent from the state with anticipated **General Obligation bonds**, and 10 percent from the County Regional Rail Authorities (RRA).

"New Starts" is the federal funding program for new transit systems or extensions of existing transit systems; these funds are granted under Section 5309 (b) of the United States Code.

A "General Obligation bond" is a municipal bond backed by the credit and taxing power of the issuing jurisdiction rather than the revenue from a given project.

¹ Please see Section 2.1.2.1 of this Draft EIS for why LRT 3A-1 (co-location alternative) is included in this Draft EIS.



The relationship between property values and railroad proximity: a study based on hedonic prices and real estate brokers' appraisals*

JON STRAND¹ & METTE VÅGNES²

¹ Department of Economics, University of Oslo, Box 1095, Blindern, N-0317 Oslo, Norway (E-mail: jon.strand@econ.uio.no); ² ENCO Environmental Consultants, Box 498, N-1327 Lysaker, Norway (E-mail: firmapost@enco.no)

Key words: cost-benefit analysis, expert panels, hedonic pricing, railroad noise

Abstract. We study the relationship between the price of residential property value and proximity to railroads in Oslo, by two different methods, namely a) through a hedonic price study where the statistical relationship between property prices and railroad proximity is estimated, and b) through a multi-attribute utility investigation of real estate agents' evaluation of such a relationship. We find in both cases that there are strong effects of proximity to railroad lines on property prices, at distances less than 100 meters from the lines. In the statistical study log-linear relationships fit the data best, and our estimates indicate that a doubling of the distance from the railroad line, within a 100 meter bound, increases the property price by about 10%. With real estate agents only a linear relationship is probed. This yields an increase in the price of an average relevant housing unit by about 182,000 NOK, due to a increase in the distance to a railroad track from 20 to 100 meters. The equivalent figure from the statistical study is in the range 120–150,000 NOK. The two figures are thus of the same magnitude.

1. Introduction

Railroad tracks and traffic imply a number of environmental effects to the public, many of which are negative. The most important of these are the noise and vibrations associated with passing trains, which generally are greater the closer one is located to the railroad line, and the less protected the line is through special noise-reducing measures. Another potential negative effect is caused by the barriers created by the railroad track itself (mobility in the direction across the track may be hindered when there are no close crossings; and when there are such crossings, hazards may be created for residing children). Finally, there may be negative aesthetic effects attached to having ones house located close to a railroad track. Note that the nuisance associated with railroad noise and vibrations is quite different from that associated with road traffic, and may be more similar to air traffic, with greater peaks and essentially no background noise; while the aesthetic and barrier effects are more similar to those created by proximity to major highways (while such

effects are less important for air traffic). A potential positive effect for some is that having ones house located close to a railroad station may give ready access to public transportation.

The work reported in this paper consists of two separate studies which both aim to derive a relationship between housing values and railroad proximity in the eastern part of Oslo. These are as follows:

- a. a statistical hedonic price study, of the relationship between the values of (owner-occupied) residential properties and their distances from the nearest railroad line in Eastern Oslo;
- b. an expert panel study, whereby real estate agents with particular knowledge of the relevant housing market have conducted appraisals of such a relationship, with the aid of a computer program based on a multi-attribute utility approach.

The background for this work was the construction of a new main eastward railroad line from the Oslo Central Station to the new main airport, at Gardermoen, 40 km north of Oslo. One of the proposed alternatives was to place such a line in a tunnel so as to essentially eliminate all environmental nuisance associated with the present main line, which cuts through a heavily populated area in east central Oslo. A proper calculation of the costs and benefits of such an alternative must consider the positive welfare effects of eliminating these negative externalities. Such calculations can be attempted in various ways. One obvious way is to attempt to derive the public's total willingness to pay for such changes, through contingent valuation or similar stated preference techniques. Alternatively, one may derive hedonic price functions, where the effects of distance to the railroad lines on property values are measured. Such effects should have the potential of indicating individuals' and businesses' willingness to pay to locate farther from the lines, thus representing a "revealed preference" measure of such value.

In deriving willingness-to-pay measures of environmental changes from statistical hedonic price relationships one encounters a number of problems. Among them are the following:

1. It may be difficult to correct for selection effects, whereby persons tolerant to noise and vibrations, and persons who need frequent railroad transportation, choose to reside close to the lines or to stations lying along the lines.
2. It may be difficult in a hedonic price study to appropriately account for all individuals who are affected by railroad traffic, in particular those persons who visit or pass through the area.
3. Altruistic or other passive-use motives for willingness to pay are disregarded.
4. If the proposed environmental change is large, it may significantly affect

- the equilibrium in the entire local property market. It may then be difficult to decide on which basis to calculate the respective value measures.
5. A number of possible “irrelevant” factors could affect property prices, in ways that will systematically bias the observed property prices relative to the measure one seeks. E.g., price regulations may imply that property price variations are less than they would be in a perfectly functioning market; and expectations of future environmental changes are likely to be picked up by property values, leading to potential biases.
 6. There may be specification errors in the hedonic price function. This point will be expanded on in Section 2 below. For one thing, unobservable house quality, which affects property values, may at the same time vary systematically with distance to the railroad lines, and proximity to railroads may be (positively or negatively) correlated with other environmental variables, such as proximity to major roads or industry, or general noise or pollution. The estimated relationship may then to some extent pick up such variations in housing quality or other environmental variables, and not the environmental variables associated with railroads. Secondly, proximity to the railroad line may be valued positively when it is correlated with easy access to trains. This factor will be ignored in our study; there is only one local railroad station in the region in question, and this station is of little consequence compared to the local subway and bus net in this region.¹

Points 1–5 above concern the ability of (correctly) estimated hedonic price relationships to measure social value of an environmental change, while point 6 relates to the possibility of actually estimating this relationship correctly. Following Rosen’s (1974) seminal work, much of the literature dealing with the estimation of hedonic price functions and their interpretation and applications have concentrated on the former of these two issues.² Although our study was used as an input into a larger study with the aim of measuring the social value of removing the railroad line, the main purpose of the work reported here was the correct estimation of the hedonic price function for residential property. This is thus limited to overcoming problems in group 6 on the list above. This is however no small problem in a hedonic price study, since (residential or commercial) property data are almost never provided in sufficiently great detail to overcome potential specification problems, with no exception in the present case. We will still argue that the hedonic price approach should, when appropriately applied, be able to identify public valuations which are associated with different distances from railroad lines, and which are derived from underlying behavioral relationships.

An objective of part b of our study is in light of this to provide an independent check of the robustness of the estimated hedonic price relationship. The idea is that professional appraisers, accustomed to selling properties in the

relevant areas, in principle should be able to assess the effect on house prices of proximity to railroads in isolation, and thus hopefully correct for such possible heterogeneity in their answers. We are aware of no published study where a statistical hedonic price relationship is combined with appraisers' evaluations, in the way done here.

A potential weakness of our data is that while the brokers' survey was done at one particular instant of time (in 1996), the hedonic price study was conducted on data for the entire period 1988–1995. We consider this no major problem, since there is little reason to suspect that the structural relationship to be estimated from the hedonic price study has changed fundamentally over this period.³

As a background for the current study, we are neither aware of any similar isolated hedonic price studies related to proximity to railroads. A number of studies have been conducted to measure the effects of noise variables on house values, both for road and air traffic.⁴ We will however argue that railroad nuisance has its own characteristics (partly similar to road traffic, and partly to air traffic, as noted above), which makes an understanding of such effect important and interesting in their own right. An important related issue is the construction of a correct operational measure of nuisance due to railroads, to include in a hedonic price relationship. The two main alternatives are physical distance to the railroad, and a measure of average noise levels from passing trains. For our study the latter type of information was not available. We will in addition argue that in the case of railroads, distance may be a better variable for representing such a relationship, as it appears in terms of real estate sales. For one thing, distance to a train line is easily observable for a house buyer, implying that it is likely to have significant impact on house purchase prices, if closeness is viewed as a drawback. Secondly, for railroad lines distance may be a quite good indicator of nuisance. Both negative aesthetic effects and vibrations are likely to be strongly correlated with distance from the track and are not directly picked up in a decibel noise variable. In addition of course peak noise (associated with a passing train) is also strongly correlated with distance. Possible, peak noise, and not average noise, is the main nuisance variable for railroad noise, although this of course ought to be studied more carefully, whenever such data are available.

We need to underline that the aim of our study is the measurement of effects of railroad proximity on house values, and not necessarily social values. It is far from obvious how a measure of social loss, resulting from the proximity of housing units to railroad lines in Oslo, can be calculated from our data. This is a separate issue that involves several other concerns, and perhaps additional data.⁵ The issue dealt with here is thus quite limited in scope, and just one step in the process of arriving at the correct social values associated with the nuisance of railroad proximity.⁶

In the next section we present the statistical hedonic price study, and in Section 3 we present the real estate agent appraisal study. In Section 4 we compare the results from the two studies, and draw some general conclusions.

2. The statistical hedonic price study

For this study we utilized a data set drawn from the Central Government Data Registry (SDS) data base, containing information on all sales of owner-occupied housing units sold in the period 1988–1995, in a zone close to the railroad tracks in eastern central Oslo (about 500 meters on each side of the tracks). This data set contains 2495 observations of sales, out of which 2152 are usable for our analysis (and such that the same unit may have been sold more than once in the period), with the sale price, the address, type of residential unit (multi-unit or single-family house), and year of construction. House and lot sizes are available for single-unit houses, while for multiple-unit buildings only the average floor unit size for each building is reported. We have no information on location of individual units within multi-unit buildings. This implies that the data on single-family homes are clearly those best suited for our statistical analysis, as will also be expanded on below. We argue that data for apartments also can be used, although they are likely to contain more “noise” than the single-family data, and may imply biases; see the discussion below. A problem in this context is that the great majority of housing units in the areas very close to the railroad lines in this part of Oslo consists of apartments. Only 364 useable observations (or 17% of the total) are for single-family units, and the rest for multi-family units. From the address for each unit, we measured (from detailed maps) its distance to the nearest railroad track. 623 units were found to lie within 200 meters from the nearest track, and 305 units within 100 meters. The data set was also split up into a central (inner-city) part, containing 1080 observations, and a peripheral (suburban) part containing 1072 observations, where, naturally, the former set has the greater predominance of apartment units.

At an exploratory stage, we conducted estimations with several different specifications for the relationship between house unit price and the variables to explain the price. Our general conclusion was that log-linear relationships on the form

$$\log(\text{pkv}) = a + b \log(\text{dist}) + c \log(\text{area}) + d \log(\text{age}) + e, \quad (1)$$

were found to yield the clearly best fit to the data.⁷ Here pkv = sales price per square meter, dist = distance of the unit from the nearest railroad track,

area = net size of the residential unit,⁸ age = number of years since construction at the time of sale, a – d constants, and e an error term.⁹ The relationships to be reported below are all estimated by OLS regression. This in effect implies an assumption that the e terms are uncorrelated with the explanatory variables included in the relationship. This is a strong assumption which is unlikely to hold in practice, for a number of reasons. In the following we will discuss four such reasons. The arguments behind them differ somewhat according to whether the residential units are single-family or multi-family housing.

1. For multi-unit housing there are likely to be errors in the variable “area”, since as noted only data on average floor areas of all housing units in the building are available for these. This will generally bias the estimate of all coefficients, b in particular. When this error is uncorrelated with e , it leads to a downward bias in this estimate, and more so the larger the average error. As a result, b is likely to be downward biased for multi-unit housing, while no similar downward bias can be expected for single-family homes.

2. The distance variable is an imperfect measure of the environmental nuisance associated with living close to the railroad. In reality noise and vibrations also depend on topographical properties, e.g. on whether the train line is elevated above the house, on level with it or sunk below it; whether there are objects (such as trees and rocks) that shield the house from noise; and whether there are other houses in between the railroad line and ones own house, and whether the unit has extra protection against noise and vibrations (such as noise-reducing windows). For multi-family housing it also matters whether the residential unit is located towards or away from the railroad line, and on what floor. When “nuisance” is the correct variable to include in the house price relationship, entering the “distance” variable instead will be equivalent to a measurement error in the “correct” nuisance the “distance” variable instead will be equivalent to a measurement error in the “correct” nuisance variable. The presence of measurement errors in the area variable will tend to bias the estimate on the coefficient b downward, as long as they are not correlated with distance (which may appear reasonable). Such errors may tend to be greater for multi-unit housing than for single-family housing. One reason is that multi-unit housing will tend to exhibit a relatively greater variation in nuisance, for a given distance to the railroad, because of the variation in location relative to the railroad for a given address in the latter case (in terms of floor location, the apartment turning away from or towards the railroad, etc.), and because location relative to (in particular, close to) the railroad is likely to be more conspicuous for a single-family house than for a multi-unit building. This factor will, at least with our data, tend to render estimations based on multi-family housing units less reliable than those based on single-family homes.

3. As commented above we may have specification errors in (1), whereby variables affecting pkv are at the same time correlated with the right-hand side variables, and are left out of the relationship as we have no observations on them. One obvious such variable is house unit “quality”, for which we have no observations. A higher level of “quality” in most cases increases the price. The possibility exists of a systematic tendency for houses that are located farther away from the railroad line to have higher quality (e.g., because maintenance is more profitable farther from the railroad line, or because persons who have bought houses and apartments farther from the line have a higher propensity to maintain their homes). If so b may tend to be biased upwards.

4. Specification errors may also result if other environmental variables than railroad proximity, which affect residential prices, and which may be correlated with railroad proximity, have been left out of the estimated relationship. One prime candidate for such a variable is road traffic density, which may be both positively and negatively correlated with railroad proximity. Over the area in question, this correlation is perhaps most reasonably negative, since being close to the railroad implies that you are likely not to be close to a major road. Since increased road traffic density most likely reduces house prices, such a factor will (in the case of a negative correlation) tend to induce a downward bias in the estimated relationship between railroad proximity and house prices.

Point 3 is here likely to bias the estimated relationship between house prices and railroad proximity in the upward direction, and the other points in the downward direction. For single-family homes the two first factors (namely an imprecise observation of residential area of the individual housing unit, and distance being an imprecise proxy for nuisance) may be small. The unobservable quality variable (which most likely produces an upward bias) may then dominate, also because for this type of homes there is greater heterogeneity than for multi-unit homes. For multi-unit homes it is less clear that the relationship should have an upward bias, when all factors are considered together.

The results from the estimations are presented in the three tables 2.1–2.3.¹⁰ We essentially only present estimation results for the coefficient b , although in all equations the coefficients c and d , in addition to a (large and varying) number of dummy variables, are actually estimated.¹¹ Table 2.1 shows estimations without correcting for type of house (single- or multi-unit). The first equation is estimated on the entire data set. In this case there is essentially no relationship between house price and distance to the nearest railroad line (it is very weakly, and not significantly, negative, and the explanatory power of the relationship is very weak).

The two last equations reported in Table 2.1 are for housing units which

Table 2.1. Log-linear relationships between house unit price and distance to the railroad track, for the entire material, and without correction for housing type.

Type of relationship	Distance coefficient	R squared	Number of observations
All data	-0.010 (-0.46)	0.043	2152
Distance less than 200 m	0.082 (1.63)	0.205	623
Distance less than 100 m	0.290 (3.61)	0.095	305

lie closer to the railroad than 200 and 100 meters respectively. The sample size is now reduced substantially (to 623 and 305 observations, respectively). Most interestingly, the distance coefficients are now both positive, about 0.08 for distances below 200 meters, and about 0.290 for distances below 100 meters. Only the latter coefficient is significantly different from zero, at level of significance of 10% or less.

Table 2.2 shows a more interesting picture, namely what appears after correcting for house type (single-family versus multi-family housing), through a dummy variable which is also reported in the table. We now find a significant relationship between house price and distance to the railroad for the entire material, with a coefficient of about 0.06 (implying that a doubling of the distance to the railroad increases the house price by 6 per cent). If we focus on distances below 200 meters, the relationship is in fact somewhat weaker and not significant. Going down to distances below 100 meters, however, the coefficient increases substantially (to about 0.1), and is now significant. This indicates that most (if not all) of the systematic effect of railroad proximity on house prices is due to effects at distances below 100 meters. This accords well with brokers' perception of such a relationship reported in Section 3 below. The coefficient on housing type in Table 2.2 is in the range 0.2–0.27, i.e., single-family homes' prices are about 25 percent higher than multi-unit homes, all other observed variables (such as square meter size of the housing unit, and location) being equal.

Table 2.2. Log-linear relationships between housing price and distance to the railroad track, for the entire material when corrected for housing type.

Type of Relationship	Coefficient on distance	Coefficient on housing type	R squared	Number of observations
Entire material	0.059 (2.87)	0.27 (5.44)	0.182	2152
Distance less than 200 m	0.040 (0.93)	0.27 (3.06)	0.243	612
Distance less than 100 m	0.102 (2.09)	0.20 (2.32)	0.239	298

From the discussion above we should expect the data for single-family houses to be better suited for such estimations, than the data for multi-family housing. Table 2.3 reports estimations done on the set of single-family houses alone. Unfortunately the number of such houses is relatively small, in total 364 with only 66 lying at a distance less than 200 meters. We still find a very strong relationship between price and distance for these, for all distances (about 0.35) and even more for distances below 200 meters (0.7), and both coefficients are highly significant. The sample size in the latter case is however very small, making the estimated coefficients quite unstable and implying that one should not put too much trust in the actual numbers. This is illustrated by an estimation of the same relationship for the subperiod 1988-1993 alone; for this subperiod the distance coefficient is less than half of that for the entire period.¹² The results still clearly indicate that the relationship between house price and railroad proximity is stronger for single-family houses than for other types of housing. It is also noticeable that the R squared coefficients are far higher for the former relationships.

In Table 2.3 we also report regressions for the “central” and the “peripheral” area comprised by our sample. We find for the overall data that the effect for the central area is approximately the same as for the total sample, while for the peripheral area the relationship is negative (but not significant). The peripheral area however contains very few observations of houses lying close to the railroad, implying that the estimated relationship is likely to be spurious. The interesting thing to note about these estimations is then that basically all the effect of railroad proximity on house price appears to be picked up by the data from the central area.

3. The real estate agent appraisal study

The hedonic price study reported in Section 2 above, while arguably useful, was also noted to be subject to a number of potential problems that may render

Table 2.3. Log-linear relationships between house price and distance to the railroad track, for single-family homes.

Type of relationship	Distance coefficient	R squared	Number of observations
All data	0.345 (8.89)	0.363	364
Central area	0.342 (5.78)	0.344	110
Peripheral area	-0.159 (-0.66)	0.300	254
Distance less than 200 m	0.692 (4.89)	0.387	66
Distance less than 200 m, 1988-93	0.299 (1.30)	0.360	49

the results inaccurate or unreliable. It was thus of interest to be able to obtain figures on the relationship between railroad proximity and housing prices, by a method that was alternative to that described above, and as independent as possible of that method. For this purpose we also carried out an expert panel study, which involved a selection of real estate brokers with particular knowledge of the housing market in the relevant parts of Oslo. The idea here was to let these brokers themselves derive such values, on the basis of their experience from this market, and using an established interactive procedure designed for such valuations.

Involving experts to perform the valuation of a good which is related to environmental quality is a procedure that so far has had few applications. A reason for this is the scepticism among most economists, in leaving valuation issues to experts who may have imprecise knowledge of the true preferences of the population, or have their own incentives that may bias their answers.¹³ Most applications of such procedures have thus so far been in management science.¹⁴ But increasingly, also economists are becoming aware of the potential benefits of such procedures, at least as supplements to other types of valuation.¹⁵ In this particular case we felt that expert opinion could provide a useful supplement, in particular since the data to be provided (house values) appear to be rather "objective".

This study involved 15 real estate agents with particular knowledge of the relevant housing market, who were faced with a procedure to trade off different attributes of housing units in the relevant areas, using an interactive computer program. For each of the brokers this procedure took approximately 1–2-hours, and was restricted to apartment housing units. The purpose of the procedure was to derive an expression of how the relative and absolute valuation of apartments in the relevant housing market, as viewed by the brokers, would be affected by changes in different characteristics of apartments, one of which was proximity to a railroad line. In the procedure we let each individual broker face a sequence of pairwise comparisons, for apartments with different characteristics, and make him or her choose which of the two apartments was considered to be the more attractive for buyers. Two of the characteristics of each apartment were its distance from the nearest railroad, in meters, and its price (in 1000 NOK). The other characteristics were the following:

- Neighborhood: The attractiveness of the neighborhood in eastern Oslo; three categories where 3 was best.
- Size: The size of the apartment; in square meters.
- Standard: The standard of the apartment; three categories, where 3 is best.
- Protection: The noise protection of the apartment; three categories, where 3 is best.
- Road: The distance to road with heavy traffic; in meters.

In the study only two characteristics were varied at a time. Since a large number of pairwise comparisons were made, the procedure however made it possible to derive mutual relationships for the tradeoffs between all the characteristics, for each of the brokers. Table 3.1 describes the range of variation of the different variables entering this choice process. The actual valuation procedure was conducted as a multi criteria utility analysis (MAUT), using an interactive computer program, Pro&Con (Wenstøp et al. 1994). This program has previously been used in other contexts for elicitation of experts' preferences for environmental goods, e.g. due to changes in air quality.¹⁶ More closely to the present application, this procedure has before also been used on a sample of real estate brokers, to assess the value on house prices of changes in proximity to power lines in suburban Oslo.¹⁷

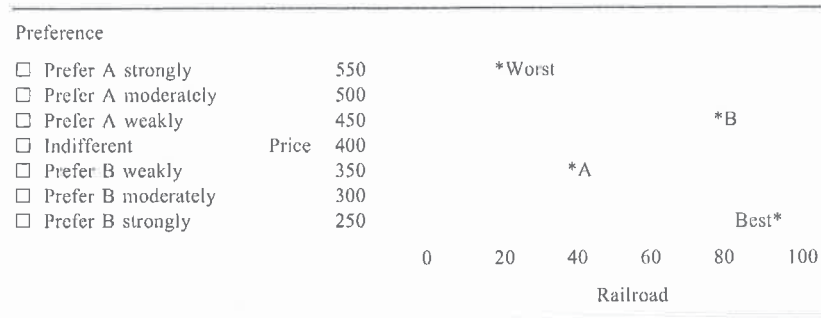
The real estate brokers were "interviewed" interactively, sitting at a computer that fed them a sequence of questions, where the next question would depend on the answers to previous questions. The trade-off analysis they are asked to perform in any one question is illustrated in Table 3.2, where A and B are two identical apartments except for differences in two variables: distance to railroad track, and sales price.

The brokers were then asked to consider whether and to what extent the housing market in general would prefer apartment A to B or vice versa. This trade-off analysis is carried out for all pairs of characteristics, 21 times for each broker. The points A and B are randomly chosen by the computer program. After having considered all trade-offs for any one broker, the broker's "consistency" is calculated. If this is low, implying that there are contradictions between some of the brokers' responses, the broker is asked to adjust his responses. When an acceptable consistency has been achieved, the computer program calculates the weights attached to each characteristic. Since one of the characteristics is the money price of the apartment, the implicit monetary value attached to changes in the different characteristics can be derived.

Table 3.1. Description of the fictitious apartments assessed by the real estate brokers, defining the expert study's influence range.

Characteristic	Apartment			
	A	B	C	D
Neighborhood; attractiveness	1	2	3	1
Size of apartment	50	65	80	100
Standard of apartment	1	2	3	3
Noise protection of apartment	1	2	3	3
Distance to heavy traffic road	20	40	60	100
Distance to railroad track	20	40	60	100
Price of apartment	250	350	450	550

Table 3.2. Illustration of the tradeoffs facing brokers in the interview process.



The calculated weights for each of the real estate brokers are presented in Table 3.3, while Table 3.4 summarizes the means and standard deviations of these figures. Table 3.3 expresses how each of the 15 participating brokers systematically trades off the different characteristics, against each other and against the money value of the apartment. The figures in the 6 first columns of Table 3.3 represent each broker's final assessment of the market's willingness to pay for one unit improvement in the respective variable. The central figures in our context are those associated with the heading "railroad" in this table, and "distance to the railroad track" in Tables 3.4 and 3.6. These represent each of the brokers' implicit assessments of the increment in house

Table 3.3. Implicitly derived WTP per unit of the different characteristics of apartments; Broker A–O (in 1000 NOK).

Broker	Neighborhood	Size	Standard	Protection	Road	Railroad	Price
A	226.484	8.629	199.456	124.109	3.060	2.963	1.000
B	299.920	6.583	133.301	63.940	2.249	2.201	1.000
C	459.025	11.558	146.035	7.291	1.039	2.039	1.000
D	355.886	11.434	116.569	47.386	832	2.598	1.000
E	357.681	9.215	81.363	48.037	1.921	2.272	1.000
F	296.563	9.157	191.558	115.296	1.447	3.886	1.000
G	293.217	13.248	199.641	69.485	1.531	3.761	1.000
H	253.561	4.988	29.343	50.773	1.758	2.816	1.000
I	213.636	3.238	104.330	8.179	168	586	1.000
J	338.936	7.888	193.583	101.379	2.677	1.277	1.000
K	241.145	7.285	60.906	39.292	423	90	1.000
L	338.394	9.238	189.588	117.996	1.288	1.179	1.000
M	351.589	11.455	129.847	75.448	1.344	2.119	1.000
N	400.480	7.866	84.717	45.560	4.877	4.596	1.000
O	175.121	5.338	97.966	45.191	1.082	1.826	1.000

Table 3.4. Mean WTP per unit for all observations (in 1000 NOK).

Characteristic	Mean	St. dev.
Neighborhood; attractiveness	306.776	76.033
Size of apartment	8.475	2.760
Standard of apartment	130.547	55.102
Noise protection of apartment	63.957	36.898
Distance to heavy traffic road	1.713	1.171
Distance to railroad track	2.281	1.230
Price of apartment	1.000	0

Table 3.5. Sensitivity analysis for mean WTP per meter extra railroad distance (in 1000 NOK).

Type of relationship	Mean	St. dev.
All observations	2.281	1.230
Without lowest observation	2.437	1.110
Without highest observation	2.115	1.089
Without both lowest and highest observations	2.271	958

Table 3.6. Consistency weighted mean WTP per unit (in 1000 NOK).

Characteristic	WTP
Neighborhood; attractiveness	307.289
Size of apartment	8.501
Standard of apartment	130.818
Noise protection of apartment	63.903
Distance to heavy traffic road	1.717
Distance to railroad track	2.284
Price of apartment	1.000

unit price (measured in units of 1000 NOK), resulting from a one meter increase in distance from the railroad line, over the range of distances 20–100 meters. The figures in Table 3.4 represent averages of the numbers in Table 3.3.

Tables 3.3–3.4 reveal considerable variation in tradeoffs between the brokers. The railroad variable is the most interesting one for our purposes. We see that there is considerable variation in how this variable is assessed, with a standard deviation of about 54% of the mean. Still many of the brokers center around the average value given in Table 3.4, of about 2300 NOK per meter of extra distance from the railroad, for an “average” apartment. Sensitivity analysis of the data, where the lowest, the highest, and both the lowest and the highest observations are omitted, shows that the WTP estimates change by at most 7%. This is presented in Table 3.5.

In order to include and utilize a measure of precision in the brokers' answers, we constructed a variable called "consistency", expressed through an adjusted R^2 for each individual broker, and which was used to weigh individual brokers' implicit valuations. The consistency weighted mean valuation is calculated as:

$$WTP_{\text{Weighted}} = \frac{\sum (\text{Consistency} \times WTP)}{\sum \text{Consistency}}$$

The consistency figures are given in Table 3.6.

It should be underlined that the real estate broker appraisal study is not a valuation study in the traditional sense, as it is not done on a sample of the general public. It may still be argued to give useful information about the relationship between apartment prices and distance to railroad tracks, and this information is arguably quite separate from that obtained in the hedonic housing price study. The observation from each broker in the study can be interpreted to reflect this broker's experiences from the housing market. It can be argued that brokers who continuously observe and participate in the relevant housing market are likely to have considerable knowledge of what factors affect apartment prices and in what way. In the relevant section of Oslo proximity to the railroad is a major nuisance factor, which has lately been heavily exposed in the media. It therefore appears reasonable that brokers with experience from property sales in this particular are of Oslo, ought to be able to identify at least an approximate effect on property value of the distance to railroad tracks in isolation. Besides, an expert study is relatively inexpensive and can as well include more site-specific variables.¹⁸

An additional advantage of the expert study as a support to the hedonic price study, is that it should make it possible to overcome many of the noted statistical problems associated with our hedonic price study, and which could render the estimations from that study biased. In particular, brokers should in principle be able to correct for other explanatory variables that could be correlated with the railroad distance variable, such as average house quality. Provided that brokers assess these relationships correctly, their answers may thus be more reliable than those based on house price estimations.

One should however be aware of some possible problems with the broker assessment study. Among them are the following:

1. Different brokers may have experience from different submarkets, and may have difficulty in forming a qualified opinion concerning the market as a whole.
2. Brokers may find it difficult to isolate the partial effect on the housing price of the railroad variable as such. In particular, they may tend to implicitly

correlate closeness to the railroad track with other unfavorable attributes, such as a low housing standard or a smaller-size apartment, although this was not intended.

3. Brokers may tend to mix the objective market value of apartments with their own personal views on the attractiveness of railroad proximity.
4. Brokers may have other problems of actually conducting an abstract valuation process, due to computational and cognitive limitations.

Point 1 should here tend to yield variability in the answers from different brokers, but not necessarily any systematic bias. If this were the only problem, an averaging over a sufficient number of brokers might then yield unbiased estimates of the sought relationships. Problems 2 could however tend to produce an upward bias in the stated valuations by brokers, in the same way as those that may be inherent in hedonic price data. Problems 3–4 may add to uncertainty in the relationship between stated and true values, and without us having much control of the degree of uncertainty. In all, the four points at least indicate some of the potential reasons why individual brokers' assessments vary, and for some, quite widely so.

4. Overall results and concluding comments

We will now sum up and compare the conclusions from the two studies, and draw general conclusions about the relationship between housing prices and railroad proximity. The main conclusions from the hedonic price study is that when considering housing units within a 100 meter range of the nearest railroad line, there is a significant and strong relationship between the house or apartment value and railroad proximity. This relationship generally becomes weaker when also considering housing units at greater distances from the railroad lines, and seems to disappear completely when estimations are done on data where housing units at distance below 100 meters are excluded. This strongly indicates that verifiable effects on housing prices are found only inside of a 100 meter zone from the lines. A corresponding conclusion can be drawn from the real estate broker study. Here brokers explicitly state that effects on house prices can be found only inside of a 100 meter range. It thus appears reasonable that our attention in the following discussion focus only on this range.

Most of the coefficients for the elasticity of house or apartment prices with respect to railroad proximity, from Table 2.1–2.3, are in the range 0.1–0.3. A rather “conservative” estimation result among these is given in the last line of Table 2.2, for the entire material (within 100 meters of the lines) corrected for housing type, with a coefficient of approximately 0.1. In our material

the average residential unit price was approximately 640,000 NOK. On this basis an elasticity of the residential unit price with respect to distance from the railroad of 0.1, implies that when moving from a distance of 100 meters to a distance of 20 meters from the railroad, the house value should be reduced by approximately 23%.¹⁹ From a calculated average of 640,000 NOK at a 100 meter distance, this implies a drop in the house price by approximately 147,000 NOK, for a residential unit at a 20 meter distance. Considered alternatively, the house value should increase by 23% when moving from a 20 meter to a 100 meter distance. This implies a value gain of 120,000 NOK (from 520,000 to 640,000 NOK). On this basis we tentatively conclude that when the residential value change is calculated from this particular estimation, the average increase in residential property value due to partial increase in distance from the nearest railroad, from 20 to 100 meters, should lie in the range 120,000–147,000 NOK, when based on this particular estimation from the hedonic price study. These figures could however easily be higher, since the elasticity parameter used for these calculations (0.1) is arguably “conservative”, when considering the entire set of estimations conducted in the hedonic price study.

In the real estate broker study, a linear relationship between house values and railroad proximity was suggested and probed. As already noted, brokers generally stated that measurable effects on housing price should be found only within the 100 meter range from railroad lines in the relevant part of Oslo. Since hardly any housing units lie closer to the railroad line than 20 meters, we find it reasonable to assume that the relationship to be derived from the broker study is linear within the 20–100 meter range. From Table 3.4, the price of the average residential unit increases by about 2280 NOK as a result of an increase in distance from the nearest railroad by one meter, within the 100 meter distance from the railroad. This implies that a housing unit that lies at a distance of 100 meters from the railroad should have a value that is approximately 182,000 NOK higher than a unit at a distance of 20 meters, all other house characteristics being equal.

These figures in total show that when using the hedonic price estimation in which we choose to place the most trust, the measured effect on house prices of a given increase in distance from the nearest railroad line appears to be of the same magnitude in the two studies. The uncertainties are however great in both studies. In the hedonic price study, there are problems of choosing which estimation to use as the basis for the calculations, as the different estimations given quite different results. In addition there are potential problems of bias due to model misspecification and unobservability of key variables. In the broker study there are problems as well, both because brokers may have imperfect knowledge of the relevant relationships, and difficulties with actually conducting the ranking of apartments. This is indicated in the rather

large spread of broker valuations. Thus both figures are uncertain. A comforting strength of the study is therefore the fact that the two figures are, after all, quite similar.²¹

As already stated above, Our scope is limited to the objective of finding the “correct” relationship between house price value and railroad proximity. The results derived here are only one ingredient into the process of measuring the social value of the nuisance caused by the relevant train lines. We will however argue that it is an important ingredient. Proceeding to the next step, of attempting a full cost-benefit analysis of changes in nuisance from railroad, is in our opinion an urgent topic for further research in this field.

Notes

- * This study was conducted as part of a study for the Norwegian State Railroads (NSB), dealing with socioeconomic effects of alternative train routes through eastern Oslo. We thank Geir Asheim, Fred Wenstøp, NSB reviewers and the referees of this journal for helpful and constructive comments. The usual disclaimer applies.
- 1. One could then instead argue that proximity of the relevant housing units to the nearest public transportation in general (be it bus, subway station or train station) should be entered as an explanatory variable in the hedonic price function. This was not done in our study.
- 2. For some particularly influential contributions see Freeman (1974), Mäler (1977) and Harrison and Rubinfeld (1978), and the surveys by Freeman (1993, chapter 11) and Palmquist (1991). See also surveys of work using the hedonic price approach in the meta analyses of Smith and Kaoru (1990) and Burton and Nijkamp (1997).
- 3. There was however a tendency for general property prices in Oslo to first fall (until 1993) and then rise over the period, and this cycle may have also affected the partial effect of railroad proximity. There is however little reason to believe that this cyclicity in any serious way has affected the reliability of the estimated coefficients.
- 4. For some important studies and reviews pertaining to road and air traffic, see Nelson (1978, 1980, 1982) and O’Byrne et al. (1985). A recent Norwegian study of effects of road traffic on housing values is Grue et al. (1997).
- 5. See the discussion of such problems in Freeman (1979, 1993) and Palmquist (1991).
- 6. We are thus e.g. totally ignoring locational factors, such as those relevant for explaining patterns of location for businesses and residences. This may in principle be a source of specification error as discussed under point 6 above, and as will be expanded on below.
- 7. The documentation of this conclusion can be obtained from the authors on request. The results for coefficients c and d are not reported here. Note however that c in general is strongly and significantly negative (of the order -0.6 , implying that a doubling of housing unit size only increases unit sales value by 40%). d is also negative (and in most cases significant and of the order -0.10 , i.e. a doubling of the unit’s age reduces its sales price by 10%).
- 8. Net size of the housing unit is here a technical term to describe net available floor space in habitable rooms of the unit. As noted exact net size is given only for single-family homes, while for multi-unit housing average unit size for each building is given.
- 9. Note also that such a specification is equivalent to one where the total sales price is the left-hand variable, and the coefficient attached to area equals $c + 1$.

10. In all tables, t statistics are in parentheses.
11. We saw no particular need to report these coefficients here. Generally, the coefficient c is highly significant and of the order -0.7 in most of the estimated relations. This implies that an increase in the square meter area of the individual housing unit by 1 percent increases the unit price by 0.3 percent, both over the entire material and for single-unit and multi-unit housing separately. The age variable is negative and on the order -0.05 to -0.1 , and generally significant. This implies that a doubling of the age of the housing unit reduces its price by 5–10 percent. We also included dummies for sales year and regional location. The sales year dummies confirmed a well-known general property of the Norwegian housing market over this period, namely that house prices had a peak in 1988 and were falling steadily until 1993, with a significant recovery over the 1994–1995 period, thus again reaching a level close to the 1988 peak.
12. Note in this context that over the last subperiod (1994–1995), plans that a railroad tunnel may be built through the relevant area were known. This may to some degree have reduced the difference in property prices between areas close and far away from the railroad line in that period, as the market may have anticipated a future environmental improvement in the relevant area. Thus the subperiod 1988–1993 may be the most reliable period on which to base a valuation of the nuisance effects of railroad proximity. Since the plans to build a tunnel all the time have been (and still are) uncertain, and since the market is likely to react slowly to such information, the effects of such expectations are in any case likely to be small.
13. For discussions of such problems, see e.g. Halvorsen et al. (1996) and Wenstøp (1994).
14. See in particular the seminal work by Keeney and Raiffa (1976), Saaty (1982) and Keeney (1992). Among other recent applications are Barda et al. (1990), Goodwin and Wright (1991) and Nitsch and Weber (1993).
15. Examples of applications in environmental and resource economics are Jansson (1992), Karni et al. (1991), Wenstøp and Carlsen (1988) and Stam et al. (1992). See also the implicit valuation study, which is indirectly based on policy maker decisions, by Carlsen et al. (1993).
16. For other related applications of MAUT to environmental valuation issues, see e.g. Jansson (1992) and Stam, Kuula and Cesar (1992).
17. See Vågnes (1995) for an account of this study.
18. For a general comparison of expert studies using a MAUT procedure, against more traditional stated preference procedures such as contingent valuation and conjoint analysis, see Halvorsen, Strand, Sælensminde and Wenstøp (1996).
19. To obtain this result, note that reducing the distance variable from 100 to 20 meters is the same as reducing the log of this variable by approximately 2.3.
20. We have not attempted to conduct any formal testing of differences between the two studies. This would in any case be difficult, since the broker study is based not on a statistically controllable sample but rather on a small preselected set of brokers. We will however view it as quite likely that we would not be able to reject a hypothesis that the numbers from the hedonic study are equal to those from the broker study, by only considering the statistical uncertainty associated with the hedonic study. It thus appears “very likely” that the figures from the two studies can not be discriminated from each other, in a statistical way.

References

- Barda OH, Dupuis J & Lencioni P (1990) Multicriterion location of thermal power plants. *European Journal of Operations Research* 45: 3322–3346.
- Braden JB & Kolstad CD (eds) (1991) *Measuring the demand for environmental quality*. Amsterdam: North-Holland.

- Burton K & Nijkamp P (1997) Environmental policy assessment and the usefulness of meta-analysis. *Socio-Economic Planning Sciences* 31: 231–240.
- Carlsen AJ, Strand J & Wenstøp F (1993) Implicit environmental costs in hydro-electric development: An analysis of the Norwegian Master Plan for Water Resources. *Journal of Environmental Economics and Management* 25: 210–211.
- Freeman AM (1974) On estimating air pollution control benefits from land use studies. *Journal of Environmental Economics and Management* 1: 74–83.
- Freeman AM (1979) Hedonic prices, property values and measuring environmental benefits: A survey of the issues. *Scandinavian Journal of Economics* 81: 154–171.
- Freeman AM (1993), *The measurement of environmental and resource values*. Washington DC: Resources for the Future.
- Goodwin P & Wright G (1991) *Decision analysis for management judgement*. Chichester: Wiley.
- Grue B, Langeland JL & Larsen OI (1997) *Residential prices. Effects of road traffic and location*. TØI report 351/97, Institute of Transportation Economics, Oslo.
- Halvorsen B, Strand J, Sælensminde K and Wenstøp F (1996) *Comparing contingent valuation, conjoint analysis and decision panels: an application to the valuation of reduced damages from air pollution in Norway*. Memorandum no. 37, Department of Economics, University of Oslo.
- Harrison D & Rubinfeld DL (1978) Hedonic housing prices and the demand for clean air. *Journal of Environmental Economics and Management* 5: 81–102.
- Jansson R (1992) *Multi-objective decision support for environmental management*. Dordrecht: Kluwer Academic Publishers.
- Karni RP, Feigin P & Breiner A (1991) Multicriterion issues in energy policy making. *European Journal of Operations Research* 56: 114–125.
- Keeney RL (1992) *Value-focused thinking*. London: Harvard University Press.
- Keeney RL & Raiffa H (1976) *Decision with multiple objectives*. New York: Wiley.
- Mäler KG (1977) A note on the use of property values in estimating marginal willingness to pay for environmental quality. *Journal of Environmental Economics and Management* 4: 355–369.
- Nelson JP (1978) *Economic analysis of transportation noise abatement*. Cambridge, MA: Ballinger.
- Nelson JP (1980) Airport and property values: a survey of recent evidence. *Journal of Transport Economics and Policy* 14: 37–52.
- Nelson JP (1982) Highway noise and property values: a survey of recent evidence. *Journal of Transport Economics and Policy* 16: 117–130.
- Nitzsch RV & Weber M (1993) *The effect on attribute ranges on weights in multiattribute utility measurements*. Management Science, 39.
- O'Byrne P, Nelson J & Seneca J (1985) Housing values, census estimates, disequilibrium and the environmental cost of airport noise. *Journal of Environmental Economics and Management* 12: 169–178.
- Palmquist RB (1991) *Hedonic methods*. In: Braden and Kolstad (1991), pp. 77–120.
- Rosen S (1974) Hedonic prices and implicit markets: product differentiation in perfect competition. *Journal of Political Economy* 82: 34–55.
- Saaty TL (1982) *Decision making for leaders: the analytical hierarchy process for decisions in a complex world*. New York: Wiley.
- Smith VK & Karou Y (1990) Signals or noise? Explaining the variation in recreation benefit estimates. *American Journal of Agricultural Economics*, 419–433.
- Stam A, Kuula M & Cesar H (1992) Transboundary air pollution in Europe. An interactive multicriteria tradeoff analysis. *European Journal of Operations Research* 56: 249–262.
- Staught R, Sowman M & Gridnley S (1993), The panel evaluation method: an approach to evaluation of controversial resource allocation proposals. *Environmental Impact Assessment Review* 13: 13–35.

- Strand J & Vågnes M (1996), *Railroad tunnel under the old city of Oslo, Gamlebyen, Economic analysis of the environmental externalities (in Norwegian)*, ENCO report no. 9608, Sandvika.
- Vuk D, Kozelj B & Mladieno M (1991) Application of multicriterion analysis on the selection of the location for disposal of communal waste. *European Journal of Operations Research* 55: 211–217.
- Vågnes M (1995) *On the valuation of environmental goods*. Case: electrical transmission lines. ENCO report.
- Wenstøp F & Carlsen AJ (1988) Ranking hydro-electric power projects with multi-criteria decision analysis. *Interfaces* 18: 36–48.
- Wenstøp F et al. (1994) *Valuation of environmental goods with expert panels*, Research Report 1:94, Norwegian School of Management, Sandvika.

About the authors

Jon Strand is a Professor in the Department of Economics, University of Oslo. He has a PhD from the University of Oslo from 1983. His main research interests are in environmental and resource economics, widely defined, and in labour and macro economics.

Mette Vågnes is an economist working in ENCO—Environmental Consultants in Lysaker on the outskirts of Oslo. She has a master's degree in economics from the University of Oslo. Her main work and research interests are economic valuation of environmental impacts, in particular in relation to cost-benefit analyses.



COPYRIGHT INFORMATION

TITLE: The relationship between property values and railroad proximity: a study based on hedonic prices and real estate brokers' appraisals

SOURCE: Transportationcavhlth Iron 28 no22102/12 My
20010052004

The magazine publisher is the copyright holder of this article and it is reproduced with permission. Further reproduction of this article in violation of the copyright is prohibited. To contact the publisher:
<http://www.springerlink.com/content/1572-9435/>

Railway Externalities and Residential Property Prices

Larry C. L. Poon

A. INTRODUCTION

Many urban areas in North America are debating whether to relocate the interurban railways which pass through their centers,¹ and the Canadian federal government has recently established a program to subsidize such relocation projects.² One of the potential social gains of urban railway relocation is the elimination or reduction of railway air, noise, and “visual” pollution in adjacent residential neighborhoods. Railway pollution represents a source of nuisance to many people, especially those living near the tracks, and is likely to have adverse effects on human health. Unclean air and vibration caused by trains may cause damage to structures and result in more frequent repairs and paintings. There has been a fair amount of literature which deals with the physical effects of various kinds of pollution.³ However, no study has attempted to determine the effects of railway pollution on human health, properties and the environment.

In light of the difficulties in estimating a railway pollution damage function directly, this paper attempts to determine the economic costs of railway pollution indirectly, namely, through a study of its influence on housing prices. The rationale underlying this approach is the following: if people have some know-

ledge of the effects of railway pollution on themselves and their property and are able to place a monetary value on these damages, they will be willing to offer a higher price for a property which is free or has suffered less from railway pollution than for a similar house which is affected by railway pollution. Thus, the purpose of this paper is to examine whether railway pollution is capitalized in residential property prices and to derive an estimate of the economic costs of railway pollution. The empirical study presented below is a case study of railway pollution in London, Canada.

The author is with the Ontario Ministry of Transportation and Communications. This paper is based on the author's Ph.D. dissertation done at the University of Western Ontario, London, Canada. The author would like to thank Professor Mark Frankena for detailed guidance as well as continuous encouragement. Valuable suggestions have also been received from Professors Erik Haites, Gordon Davies and a referee of this Journal. All errors that remain are solely the responsibility of the author.

¹ Six cities in Canada have completed railway relocation projects. Thirty more cities or towns still have their railway relocation proposals before the Canadian Transportation Commission. See Poon [1976 Table I.1]. In the 1950s and 1960s, almost fifty communities in the United States prepared detailed plans for relocation according to U.S. Department of Transportation [1974].

² In 1974, the Canadian Federal government passed the Railway Relocation and Crossing Act [S. C. 1974, chap. 12].

³ See, for example, the studies cited in Dewees, Emerson and Sims [1975, chap. 3].

B. A REGRESSION MODEL AND EMPIRICAL RESULTS

In this section a regression model of the determinants of residential property prices is presented. The main objective is to find out whether and to what extent a railway causes the reduction of sale prices of residential properties located in its neighborhood. The following items will be discussed in turn: data and sample, specification of the model, and empirical results.

1. Data and Sample

The sample consists mainly of single-family detached dwellings. However, a number of multiple-family dwellings (duplexes, triplexes) are included as well. The latter represent approximately 15 percent of the total sample of 285 observations.

The principal source of data is Multiple Listing Service (MLS) sheets from the files of several real estate firms in London, Canada.⁴ The following information is available from MLS sheets for each property sold: (a) address of the property; (b) physical features such as style, type of siding, number of stories, age, lot size, number and size of each type of room, garage, paved driveway, basement, type of heating, etc.; (c) asking price and down payment requirements; (d) financial terms and mortgages; (e) assessment and taxes; (f) actual sale price and date of sale as recorded by the real estate firms.

To obtain distances from railways, each observation was located on city land use maps and the distance was measured in 100-foot intervals. The data used cover a period of six years, from 1967 to 1972. The main reason for using data from six years is to enlarge the sample size.

Instead of taking a random sample of all residential property sales in the city, four areas within the city were selected for study (see Figure 1). There are two reasons for this approach. First, properties which are far from the tracks will not be affected by railway externalities and hence need not be included.⁵ The inclusion of these transactions might create unnecessary statistical "noise." In this sample the maximum distance between track and property is about 1,400 feet. Second, in order to isolate the effect of railway facilities on property values, other locational and environmental variables are best kept constant. By selecting a sample of given size from a limited area, one minimizes the number of explanatory variables required in the regression equation.

All areas are primarily residential in use. Some commercial and/or light industrial activities are present in areas 1, 2 and 3. Area 4 has the highest average income and average property value. Areas 1 and 4 are relatively new in comparison with areas 2 and 3.

2. Specification of the Model

The price of a residential property is hypothesized to be a function of the characteristics of its structure, its lot and its neighborhood. In addition, characteristics of the existing mortgage may affect price. Also, since the data span a period

⁴ Published by Middlesex Real Estate Board, Ontario, Canada. In London MLS sales appear to be 45% of the total. There seems to be no significant differences between MLS and Non-MLS properties. The above information is provided by Peter Chinloy at the Department of Economics, University of Western Ontario, who has been doing research concerning the housing market in London, Canada.

⁵ Tests of the data indicate that railway effects reach less than 1,000 feet from both sides of the railway.

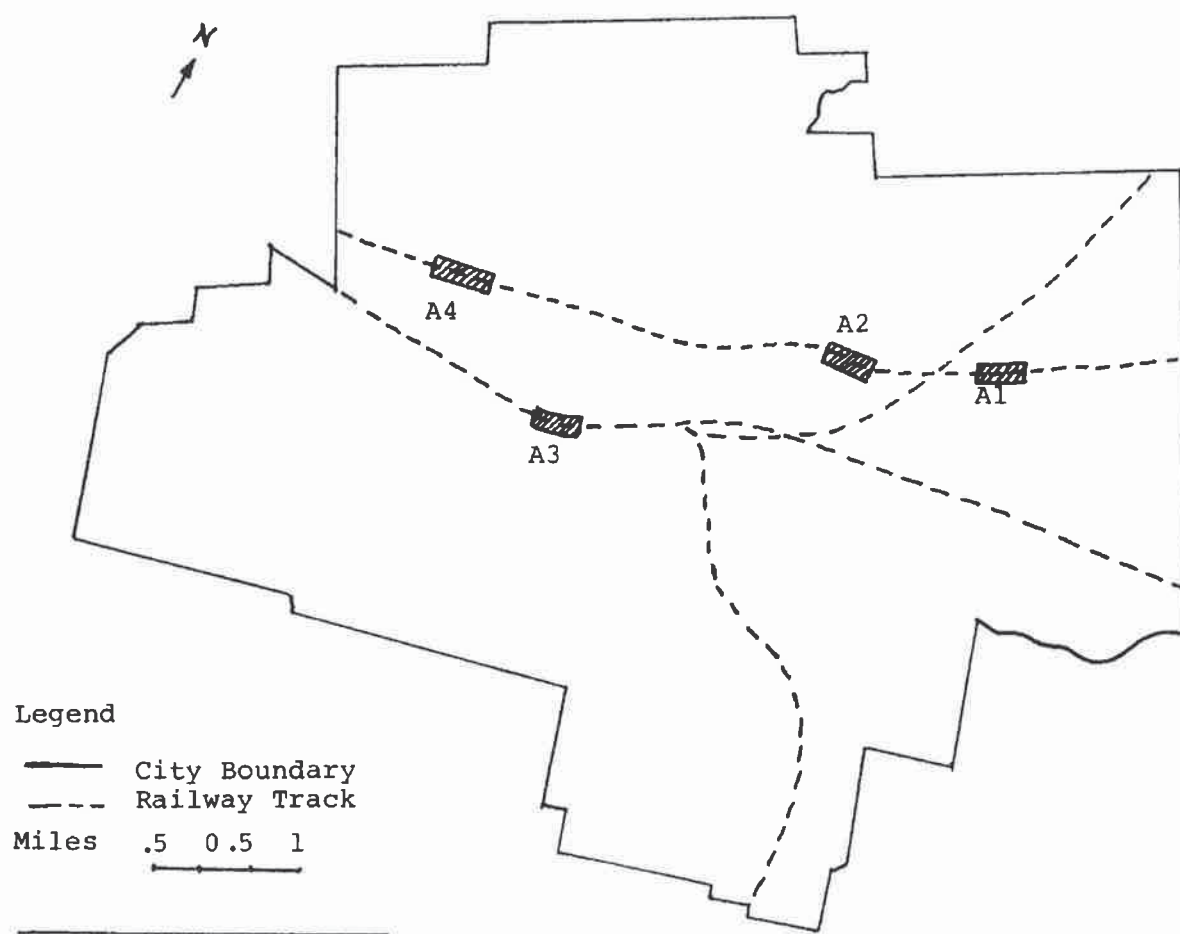


FIGURE 1
MAP OF LONDON, CANADA, SHOWING SAMPLE AREAS
Source: Statistics Canada, Catalogue 95-742.

of six years, account must be taken of the change in property prices over time.⁶

Thus, for single-family residential properties one can estimate the following function:

$$P = f(X_1, \dots, X_n)$$

where P is the price of a residential property and X_1, \dots, X_n are locational, housing characteristics, environmental, and other variables which affect housing prices. One of the independent variables, say X_i , will be distance from the railway.

The main hypothesis will be that because of railway pollution,

$$\frac{\partial P}{\partial X_i} > 0$$

As mentioned before, railway pollution comes in different forms: air, noise, vibration and "visual" pollution. All of them

⁶ Another variable which may also be included is property tax assessment. We tried this variable without success. The tax variable will not be discussed in the rest of this paper.

may be assumed to vary directly with the distance from the railway.⁷

For empirical testing the model is specified in two basic forms:

$$P = a_0 + a_1x_1 + a_2x_2 + \dots + a_nx_n + e \quad [1]$$

$$\ln P = b_0 + b_1 \ln x_1 + b_2 \ln x_2 + \dots + b_n \ln x_n + e \quad [2]$$

where P is the sale price of an individual property, x_1, \dots, x_n are independent variables, e is the error term, \ln is the natural logarithm operator, and $a_0, a_1, \dots, a_n, b_0, b_1, \dots, b_n$ are coefficients to be estimated.

A priori one cannot determine which, if either, of the specifications represents the true relationship. Both forms have been used in previous studies.⁸ Both forms as well as some other specifications will be tried.

(a) *Dependent variables.* The dependent variable is the sale price of an individual residential property. In order to calculate all costs in terms of 1972 dollars, a house price index developed by Davies and Jackson [1975] for London was used to inflate all sale prices to 1972 dollar levels. Consequently, time trend is not included as one of the independent variables.⁹

(b) *Structural variables.* The structural variables included are: age (number of years since the house was built); number of rooms (including dining room, living room, family room, bedrooms and kitchen); number of bathrooms; recreation room (dummy = 1 if the house has a finished recreation room in the basement); basement (full = 1, half = .5, none = 0); number of stories; fireplace (dummy = 1 if the house has one or more fireplaces); number of dwelling units (dummy = 1 if the house is single detached, dummy = 0 if duplex or triplex); garage (dummy = 1 if the house has a

garage); type of siding (dummy = 1 if stone or brick).

Most of the structural variables are expected to be positively related to sale price. The age variable is likely to be negatively related to sale price, except in the case where older houses may have better landscaping and better construction.¹⁰

(c) *Lot-related variables.* Four lot-related variables are considered: lot size (square feet); corner lot (dummy = 1 if it is a corner lot); distance from arterial road (dummy = 1 if a property is within 3 lots of an arterial road); and distance from railway (in units of 100 feet). All of the properties are connected to the city sanitary sewers and none of them use septic tanks. Data on other lot-related variables such as landscaping and frontage are not available.

Lot size and distance from railway are expected to be positively related to sale price. Distance from arterial road is expected to be negatively associated with sale price. The sign of the corner lot variable is ambiguous.¹¹

⁷ It would be extremely difficult to separate the effects on property prices of the various forms of railway pollution because all of them tend to vary with distance from the railway. If desired, information concerning the relative significance of the various forms of railway pollution may be determined by interview techniques.

⁸ Different forms have been used by different authors, for example: *linear*: Brigham [1965], Ridker and Henning [1967], and Richardson, Vipond and Furbey [1974]; *log*: Anderson and Crocker [1971] and Emerson [1972]; *both linear and log combination*: Grether and Mieszkowski [1974].

⁹ A separate time trend employing the monthly housing price index for Canada has been tried. The results do not change appreciably except that the magnitude of the coefficients estimated changed.

¹⁰ Some realtors have suggested that the average quality of workmanship in construction in London declined after about 1967 or 1968, e.g., use of cheaper materials such as plywood instead of hardwood for floors, less wood per house, etc.

¹¹ In an area where commercial activities are allowed, a corner lot may command a positive premium. However, in a purely residential area, this probably would not be the case.

TABLE 1
DETERMINANTS OF RESIDENTIAL PROPERTY PRICE, REGRESSION RESULTS
(Pooled Sample: Linear, Quadratic, and Log)

Independent Variable†	[1a] Linear	[1b] Quad.	[1c] Quad.	[1d] Quad.	[1e] Linear	[2] Log
Age of house	-134.27 (6.28)*	-500.94 (3.64)*	-487.78 (3.52)*	-470.75 (3.36)*	-121.14 (1.15)	-.13 (5.60)*
Garage	576.28 (1.57)	643.66 (1.87)*	701.67 (1.92)*	939.14 (2.37)*	410.09 (1.50)	.00 .10
Bathrooms	1459.28 (3.04)*	1538.87 (3.24)*	1583.85 (3.30)*	1565.71 (3.03)*	1174.51 (3.28)*	.13 (2.75)*
Lot size	.38 (3.92)*	.39 (4.06)*	.23 (2.09)*	.37 (3.73)*	.40 (5.60)*	.15 (4.15)*
Number of rooms	852.08 (5.19)*	827.12 (5.08)*	814.64 (4.95)*	1002.07 (5.60)*	594.60 (4.86)*	.35 (4.98)*
Siding material	1498.87 (2.75)*	1318.42 (2.43)*	1364.46 (2.51)*	1334.97 (2.31)*	1176.92 (2.89)*	.09 (2.76)*
Number of stories	1245.69 (2.18)*	1266.82 (2.24)*	1321.23 (2.33)*	1280.35 (2.09)*	952.98 (2.24)*	.05 (1.04)
Basement	1766.91 (1.91)*	1957.43 (2.14)*	1840.01 (2.00)*	1300.18 (2.32)*	1722.90 (2.50)*	.21 (2.39)*
Heating	538.73 (1.18)	456.22 (1.01)	521.20 (1.14)	677.46 (1.41)	410.56 (1.21)	.04 (1.55)
Fireplace	688.64 (1.15)	735.12 (1.26)	798.69 (1.37)	793.40 (1.29)	1076.67 (2.49)*	.03 (.82)
Recreation room	-280.54 (.35)	-120.75 (.15)	-115.70 (.45)	35.85 (.04)	189.59 (.32)	.00 (.82)
Corner lot	1077.92 (3.00)*	2041.77 (2.99)*	2036.58 (2.97)*	2173.11 (3.00)*	1784.46 (3.44)*	.12 (2.94)*
Distance from arterial road	-592.44 (.81)	-499.39 (.69)	-538.83 (.75)	777.23 (1.03)	641.86 (1.10)	-.04 (1.02)
Duplex, triplex	1264.99 (2.05)*	1135.98 (1.86)*	1117.31 (1.81)*	—	533.16 (1.16)	.05 (1.27)
Areas dummy A2	532.19 (1.00)	598.63 (1.14)	572.86 (1.09)	966.36 (1.68)*	1060.94 (2.65)*	.05 (1.53)
A3	-717.15 (.87)	-616.33 (.75)	-667.54 (.81)	-480.92 (.56)	-44.05 (.07)	.03 (.58)
A4	7464.52 (5.30)*	4116.08 (2.24)*	4334.41 (2.35)*	3810.61 (2.06)*	8145.52 (5.78)*	.08 (.87)
Distance from railway	217.04 (2.99)*	588.72 (2.45)*	—	599.93 (2.26)*	136.08 (2.52)*	.05 (3.71)*
Distance from railway squared	—	-35.43 (1.68)*	—	-35.88 (1.61)	—	—
Mortgage variable	-.00 (.30)	.00 (.06)	-.00 (.00)	.00 (.10)	-.00 (.01)	-.00 (.34)
Age of house squared	—	5.77 (2.67)*	5.57 (2.55)*	5.23 (2.33)*	.67 (.40)	—
LSDR	—	—	.062 (1.67)	—	—	—
LSDRR	—	—	-.00 (1.00)	—	—	—

TABLE 1 (Continued)

Independent Variable	[1a] Linear	[1b] Quad.	[1c] Quad.	[1d] Quad.	[1e] Linear	[2] Log
Time trend	—	—	—	—	.28 (4.10)*	—
Constant	6739	10030	11276	9964	107	7.9
<i>N</i>	285	285	285	242	285	285
<i>R</i> ²	.84	.85	.85	.87	.88	.73

Note: *t*-statistics are in parentheses. *LSDR* = Lot size times distance from railway; *LSDRR* = Lot size time distance from railway squared.

* Significant at 5% level.

† The dependent variable is sale price (equations [1a], [b], [c], [d], [e]) and ln (equation [2]).

(d) *Neighborhood variables.* Each of the areas from which observations were drawn is fairly uniform with respect to neighborhood variables such as population density, distance from employment centers, average income, and public services. Consequently, no neighborhood variable is included in the regressions for individual areas. However, when observations for all areas are combined and one regression run is made, area dummies are used.

(e) *Mortgage variables.* If a property has a large, open, long-term, low-interest mortgage, it offers some financial advantages. The present discounted value of the potential saving in interest payment for the buyer is approximately

$$S = \sum_{t=c}^N \frac{(r_c - r_m)M_t}{(1 + h)^t}$$

where:

- r_c = interest rate on new mortgages at time of sale ($t = c$);
- r_m = interest rate on the existing mortgage;
- M_t = outstanding mortgage at time t (in dollars);
- h = buyer's annual discount rate; and
- N = year in which existing mortgage will be paid off.

In the regression equation, $S^1 = (r_c - r_m)M_c$ is used as a proxy for S since data on N or h are not available and the only value of M_t available is M_c . Both S and S^1 are expected to be positively related to sale price.

(f) *Alternative specification of some variables.* In specification [1] above, a linear relationship is assumed for all variables. However, for the variables "age" and "distance from railway," it was hypothesized that the relationship with the dependent variable would likely be nonlinear. Thus, in addition to specifications [1a] and [2], nonlinear (quadratic) forms of these variables were tried in the otherwise linear regression [1b] (see Table 1).

3. Empirical Results

The regression results are presented in Table 1. Most of the variables have the expected signs and are significantly different from zero at the five percent level. The results related to the railway variable will be discussed but not those of other variables, since the latter are not of direct interest to this study.

The distance from railway (*DR*) variable is significant at the five percent level and has the expected sign in all regressions. The estimated coefficients for the

pooled sample of 285 observations are as follows:

$$P = \dots + 217 DR + \dots \quad [1a]$$

(2.99)

$$P = \dots + 588.7 DR - 35.4 DR^2 + \dots \quad [1b]$$

(2.45) (1.68)

$$\ln P = \dots + .05 \ln DR + \dots \quad [2]$$

(3.71)

The figures in brackets are *t*-statistics of the individual coefficients. All these relationships show that, other things equal, residential property sale price increases with distance from the railway.

The linear and log forms do not indicate where railway adverse effects on property value would terminate. However, the quadratic form seems to indicate that discount in sale price terminates around 800 to 900 feet from the railway track. Unfortunately, only a limited number of observations beyond 900 feet from the railway were available. Thus, one cannot run separate regression equations for those observations which lie beyond 900 feet from the railway to test the significance of the railway variable. However, the following test was performed. The 28 observations which lay beyond 900 feet from the railway were selected and their estimated sale prices found based on the assumption that they were 850 feet from the railway. The estimated sale prices were compared with the actual sale prices (adjusted to 1972 dollars). The hypothesis is that if railway externalities terminate around 850 feet from the railway, the estimated sale prices should not be significantly different from the actual sale prices. Two tests were used. The first one is a simple *t*-test of the difference of two means. The second one is a "paired sample" test, comparing each of the 28 pairs of actual and estimated sale prices. In each case no significant difference between the actual and

estimated sale prices was found at the five percent level.

When the distance from railway variable was tested with subsamples, it was found to be significant at the five percent level and to have the expected sign in three of the four areas. It is a bit surprising to find that this variable is not significant in area 4, which is a relatively high-income area. A closer look at this area suggests why the properties near the railway may not be adversely affected. In this area, most of the tracks are buried in cuttings and are fenced off. This reduces the unpleasant noise and visual impact of the railway considerably. In the other areas, this is not the case.

Equation [1c] in Table 1 specifies the distance from railway variables in a different manner. It was hypothesized that the discount in residential sale prices due to railway externalities would be on a per square foot of lot basis rather than on a per lot basis. To test this hypothesis the equation was specified as follows:

$$P = a + \dots + rLS + \dots$$

where P = sale price of property; a = constant (servicing cost, etc.); r = value per square foot, which depends on distance from railway (DR) according to a quadratic function such as $r = c_1 + c_2 DR + c_3 DR^2$, where $c_1 > 0$, $c_2 > 0$, $c_3 < 0$; and LS = lot size (square feet).

Thus, the regression to be estimated would be:

$$P = a + \dots + c_1 LS + c_2 LS \cdot DR + c_3 LS \cdot DR^2 + \dots$$

The regression results show that LS and $LS \cdot DR$ are significant at the five percent level. However, $LS \cdot DR^2$ is found to be not significant at the five percent level.

Since the sample consists of both single-detached and duplex and triplex dwellings, regressions with only single-de-

tached units were run. The results do not change significantly from those with both types of dwellings (see equation [1d] in Table 1).

As an alternative to adjusting all sale prices into 1972 dollars, the London housing price index constructed by Davies and Jackson [1975] was entered as an independent variable. The results are illustrated in equation [1e] in Table 1. The index is significant but there is no important change in the results for other variables.

Some qualifications to the above findings are called for. The above results are based on a sample which consists mainly of single-family detached homes. It is not clear whether they would apply to high-rise apartments as well. The differences in physical structure and also in ownership (owner versus tenants)¹² could mean that some of the above conclusions would not hold for high-rise apartments.¹³

Due to data limitations we may not have succeeded in isolating the effects of some other factors on property sale prices. Hence, the distance from railway variable may pick up the effect of some correlated variables which are not included in the regression equation, such as housing quality.¹⁴

C. ECONOMIC COSTS OF RAILWAY EXTERNALITIES

To estimate the value of social costs of railway externalities, the following function can be used:

$$SC = \sum d(x_i) n(x_i)$$

where

SC = dollar value of social costs of railway externalities as measured by the discount in property values;

$d(x_i)$ = average discount in dollars in property value between 100 x_i and 100 ($x_i - 1$) feet from the railway;

$n(x_i)$ = number of properties between 100 x_i and 100 ($x_i - 1$) feet from the railway.

To calculate $d(x_i)$, one of the empirical functions estimated may be used, namely, equation [1b] in Table 1:

$$P = \dots + 588.7x - 35.4x^2 \dots$$

Based on this relationship, column 2 of Table 2 shows the difference in property value in dollars if the same house is located farther and farther from the railway. The effect of railway externalities on property values terminates about 800 to 900 feet from the track according to this relationship. Comparing two similar properties, one within 100 feet of the track, and the other over 800 feet from the track, the latter sells for \$2,161 more than the former. In other words, the discount of the house located within 100 feet of the railway is \$2,161. Column 3 of

¹² Because of the short-term nature of apartment living, people may care less for railway externalities. Hence it may not be fruitful trying to detect railway externalities by looking for differences in apartment rents. Condominium sale prices could be a much better indicator. However, this form of ownership was still not popular in London during the period under consideration.

¹³ For example, the conclusion with respect to the distance where railway externalities terminate.

¹⁴ It is conceivable that people who do not care about railway externalities also do not care about the quality of their homes (interior and exterior), so the houses near railways may be of systematically lower quality. On the other hand, people near railways may have a greater incentive to do landscaping to cut down on railway externalities, so properties near railways have systematically better landscaping (hedges, trees). In the first case, the estimated value of the coefficient of the railway variable would be biased upward, and in the second case, the bias would be in the other direction. However, a priori, one cannot determine which, if any, of these cases represent the true picture. Hence the estimated coefficient can but may not be biased.

TABLE 2
DIFFERENTIAL IN HOUSE SALE PRICE
AT VARIOUS DISTANCES FROM A
RAILWAY IN 1972

(1) (x), Distance from Railway (ft.)	(2) ^a Increase in Sale Price Compared to $x = 0$	(3) ^b Discount in Sale Price Compared to $x = 850$
50	\$ 285	\$2,161
150	883	1,563
250	1,250	1,196
350	1,627	819
450	1,932	514
550	2,167	279
650	2,329	117
750	2,424	22
850	2,446	0

^a Based on the estimated coefficient of the distance from railway variable of equation [1b] in Table 1.

^b Based on figures in column (2).

Table 2 gives the discount in dollars of property value at various distances from the railway.

Multiplying the discount in dollars per property by the number of properties at various distances from the railway, one can obtain a measure of the present discounted value of external diseconomies imposed by railways on their neighborhood residential areas. For London, an estimate of \$4.65 million was obtained.¹⁵

It may be worthwhile to emphasize at this point that one should not consider gains or losses in property values per se as aggregate consumption benefits or costs of railway relocation. Rather, the differences in property value *provide a measure* of railway externalities. As a result of railway relocation, part or all of these externalities might be eliminated. This represents a real gain to society regardless of how property prices behave after railway relocation.

D. CONCLUDING REMARKS

The empirical evidence presented here supports the hypothesis that railway externalities are at least partially capitalized in residential property prices. The estimated discount in property prices offers a measure of economic costs of railway pollution in residential areas. This type of information should facilitate urban land use planning and be useful in the evaluation of urban railway relocation and noise abatement projects. Unfortunately, this indirect method suffers a potential drawback, that is, there appears to be no practical way to determine whether the economic cost derived by the method would underestimate or overestimate the true costs of railway pollution.¹⁶ Nevertheless, this indirect method is probably the most cost-effective method to obtain information regarding the economic costs of railway pollution.

Due to the lack of data this paper has not attempted to estimate the economic costs of railway pollution on commercial and institutional areas. However, one would expect that these costs are probably less significant than those imposed on residential areas.

¹⁵ See Poon [1976] for further details.

¹⁶ For a discussion of various factors which may bias the estimates, see Poon [1976, chap. 4].

References

- Anderson, R. J., and Crocker, Thomas D. 1971. "Air Pollution and Residential Property Values." *Urban Studies* 8 (Oct.): 171-80.
- Brigham, Eugene F. 1965. "The Determinants of Residential Land Values." *Land Economics* 41 (Nov.): 325-34.
- Crowley, Ronald W. 1973. "The Effects of an Airport on Land Values." *Journal of Transport Economics and Policy* 7 (May): 144-52.

- Davies, Gordon W., and Jackson, Peter L. 1975. "A Model of the Urban Housing and Residential Land Markets." Department of Economics, University of Western Ontario, Canada.
- Deweese, D. N.; Emerson, C. K.; and Sims, W. A. 1975. *Economic Analysis of Environmental Policies*. Toronto: University of Toronto Press.
- Ester, Mark. 1971. "Land Values and the Costs of Urban Congestion: Measurement and Distribution." *Social Science Information* 10 (6): 7-36.
- Emerson, F. C. 1972. "Valuation of Residential Amenities: An Econometric Approach." *The Appraisal Journal* (April): 268-78.
- Freeman, A. Myrick, III. 1974. "On Estimating Air Pollution Control Benefits from Land Value Studies." *Journal of Environmental Economics and Management* 1 (May): 74-83.
- Grether, N. M., and Mieszkowski, Peter. 1974. "Determinants of Real Estate Value." *Journal of Urban Economics* 1 (April): 127-45.
- Kitchen, James W., and Hendon, William S. 1967. "Land Values Adjacent to an Urban Neighborhood Park." *Land Economics* 43 (Aug.): 357-60.
- Lind, Robert C. 1973. "Spatial Equilibrium, the Theory of Rents and the Measurement of Benefits from Public Programs." *Quarterly Review of Economics* 87 (May): 181-89.
- Polinsky, A. Mitchell, and Shavell, Steven. 1975. "The Air Pollution and Property Value Debate." *Review of Economics and Statistics* 57 (Feb.): 100-104.
- Poon, Larry C. L. 1976. "Urban Railway Relocation: An Economic Evaluation." Ph.D. dissertation, Department of Economics, University of Western Ontario, London, Canada.
- Richardson, Harry W.; Vipond, John; and Furbey, Robert. 1974. "Determinants of House Prices." *Urban Studies* 11 (June): 189-99.
- Ridker, Ronald, and Henning, J. 1967. "The Determination of Residential Property Values with Special Reference of Air Pollution." *Review of Economics and Statistics* 49 (May): 246-57.
- Small, Kenneth A. 1975. "Air Pollution and Property Values: Further Comment." *Review of Economics and Statistics* 57 (Feb.): 105-107.
- U. S. Department of Transportation. 1974. *Guidebook for Planning to Alleviate Urban Railroad Problems*, vol. 3. Washington, D. C.
- Wabe, J. S. 1971. "A Study of House Prices as a Measure of Establishing the Value of Journey Time, the Rate of Time Preference and the Valuation of Some Aspects of Environment in London Metropolitan Region." *Applied Economics* 3 (Dec.): 247-55.
- Wales, T. J., and Wiens, E. G. 1974. "Capitalization of Residential Property Taxes: An Empirical Study." *Review of Economics and Statistics* 57 (Aug.): 329-33.

Copyright of Land Economics is the property of University of Wisconsin Press and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.



PERGAMON

Transportation Research Part D 8 (2003) 169–184

TRANSPORTATION
RESEARCH
PART D

www.elsevier.com/locate/trd

Railroad noise: economic valuation and policy

Martijn Brons, Peter Nijkamp *, Eric Pels, Piet Rietveld

Department of Regional Economics, Free University, De Boelelaan 1105, 1081 HV Amsterdam, The Netherlands

Abstract

In developed countries noise annoyance is an important source of environmental concern. Research on noise annoyance caused by railroad traffic is relatively underdeveloped. Here, a causal chain model is presented in which railroad traffic density, noise emission, noise immission and noise annoyance are causally related. Noise level, habituation and railroad usage are determinant factors. Noise annoyance causes social and economic costs, such as property value depreciation. Policy measures, aimed at reducing social and economic costs, are incorporated in various stages of the causal model. These measures can be subdivided into noise regulation and direct prevention measures. Stricter threshold values lead to higher total costs, but may lower social costs per capita. Economic feasibility of policy measures is usually analyzed by means of a cost-benefit case study. Methods of analysis used are diverse and ad hoc. Therefore, results of different case studies are not easily compared in terms of research synthesis.

© 2003 Elsevier Science Ltd. All rights reserved.

1. Introduction

Economic growth and land use policy cause a situation where noise from surface and airborne traffic is an ever-increasing burden on the residential environment. Noise does not only generate a reduction of the sense of wellbeing of those affected, but also causes property value depreciation. As a result, noise annoyance has become one of the most serious forms of environmental pollution in industrialized economies. Noise pollution is an economic externality, and since silence does not have a market price, it is necessary to deduce its price indirectly. Therefore, determining an appropriate compensation fee is a complicated matter.

In many countries, the use of public transport—in particular, mass transit systems—is favoured so as to ameliorate the negative consequences of private transport, apart from the equity elements

* Corresponding author. Tel.: +31-20-444-6090; fax: +31-20-444-6004.

E-mail address: pnijkamp@econ.vu.nl (P. Nijkamp).

involved. In order to stimulate the use of public transport, governments tend to plan residential areas close to railroad terminals or railway infrastructure while at the same time residential areas are made more accessible by expanding the railway network. Due to this policy, railway noise annoyance has recently become an issue of increasing importance.

Railway noise is a complex phenomenon. The purpose here is to study the relationships between the components of the railway noise chain, and to identify opportunities for the government to use these relationships in noise prevention. Furthermore, the trade-off between damage costs and noise prevention by the government is discussed. This includes a literature survey on valuation of railroad noise pollution.

2. The railway noise chain system

Railway noise is an interdisciplinary problem, since both economic systems and processes and environmental issues are involved. Economic commodities can only be converted into other economic commodities by means of a co-transformation of natural resources into emissions of noise in this case (Heijungs, 2001).¹ A causal railway noise pollution model of economic and environmental interactions can be identified, with the government as one of the system components. The system is closed through a feedback loop that relates economic externalities to policy measures (Fig. 1). The generation of noise emissions depends on railway traffic characteristics such as frequency and speed, and on noise emission limit values, which are determined by government policy.

Noise emission and noise immission values are not necessarily equal.² Important factors are the distance between the railroad track and the measurement point, meteorological factors and the presence of objects located between the railroad track and the measurement point and interfering with the noise dispersion. Government measures to reduce noise exposure such as the use of noise control barriers are an example of the latter category. Activities people are involved in, the attitude of residents towards the railway and habituation are some examples of factors determining whether or not immission leads to annoyance.

Noise annoyance has detrimental social and economic consequences. Social effects involve both psychological and physiological health problems. Economic effects are manifold and diverse but they are always economic costs. Economic costs may result from social consequences. It is obvious that school buildings, medical premises, residential areas and business premises exposed to noise will affect the economy through the human capital stock. Railway noise may have a negative effect on property values. Moreover, noise limit values put restrictions on construction plans in the vicinity of the railroad track. Reducing such economic effects or meeting noise limit values involves costs. Sometimes, the feasibility of noise reduction measures is assessed by a cost-benefit analysis.

¹ The emission level is the decibel level at the noise source.

² The immission of noise is the decibel (dB(A)) value measured at a given measurement point, which may be located at a residential building or any other receiving property.

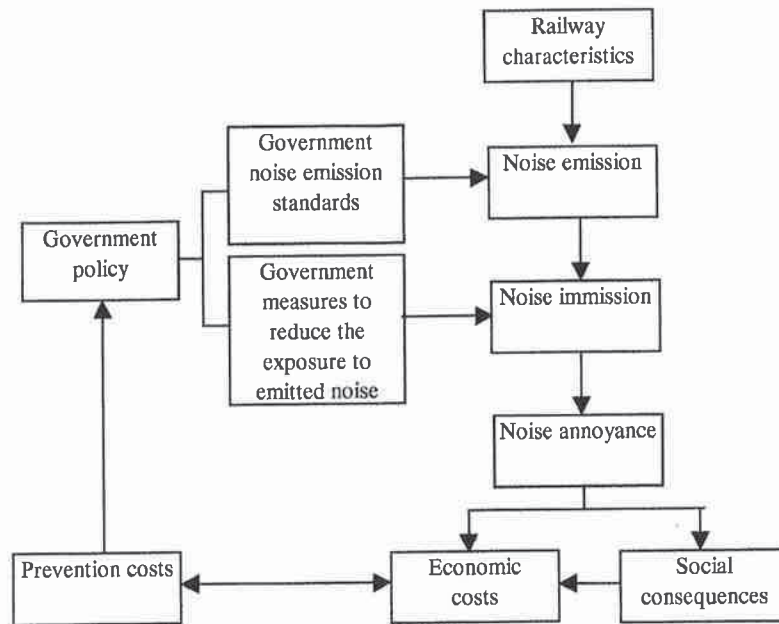


Fig. 1. The railway noise chain system.

3. Government policy: emission standards

Government policy on noise annoyance is primarily directed along two lines of measures. First, governments can use regulation of noise emission and immission standards and limit values. This includes regulation of noise measurement and methods. Second, governments can use direct policy measures to reduce noise emission and immission and provide incentives to private agents, such as railway operators and residential developers, to apply such measures. An example is the construction of noise control barriers. Direct noise reduction measures are discussed in Section 5. In this section we will shortly describe government policy on noise emission standards and limit values.

Legislation of noise annoyance offer governments various possibilities to reduce noise emissions and immissions. These include, restrictions of noise emission from rail vehicles; restrictions of the temporal distribution of railway traffic; restrictive conditions with respect to the construction of the railway infrastructure; establishment of a zone regulation system similar to the one used for highways. Zone regulation creates a zone along every railway line. The width varies from 100 to 500 m, depending on traffic density. Within such a zone, limit values vary from say 50 dB during nighttime to say 60 during daytime for residential buildings. Different limit values may apply to, for example, hospitals and schools and business premises (Table 1 for Netherlands). These limit values are relatively easy to impose when constructing new railway lines or buildings. In the case of existing urban areas and railway lines, additional measures related to vehicles and infrastructure are needed. Note that in many countries the simultaneous development of urban areas and of railway networks in the 19th century has led to situations with high noise levels near to existing buildings.

Table 1
Noise limit values for different building types in The Netherlands^a

Building type	24 h	Day	Evening	Night
Noise sensitive buildings (schools, hospitals)	55	55	50	45
Residential buildings	57	57	55	50
Office buildings	65	65	60	55

Source: Lawaai-beheersing. Handboek voor Milieubeheer, 2001.

^a The day limit value applies from 7 am to 7 pm. The evening limit value applies from 7 pm to 11 pm. The night limit value applies from 11 pm to 7 pm. The 24 h limit value is the highest value of the day limit value, the evening limit value increased with 5 dB(A) and the night limit value increased with 10 dB(A).

4. Noise emission and dispersion

There is a close, but complex, relationship between the emission and the immission level of noise. Together they form an important component in the railway noise chain system. They also provide an opportunity for the government to reduce noise annoyance by reducing the noise emission and noise immission levels.

4.1. Noise emission sources and reduction measures

Rail system characteristics such as traffic density, frequency, speed, train type and rail-infrastructure characteristics initially determine noise emission. Specific noise emission sources can be categorized into: rolling noise from vehicles on straight rails without discontinuities; bumping noise from discontinuities on wheels or rails such as crossroads and junctures; curving noise from vehicles passing through a curve; noise generated by diesel engines; aerodynamic noise caused by turbulence due to disturbing elements in the air flow along the train; other sources such as braking, railway maintenance, station noises or crossroads warning signs. Fig. 2 shows that there

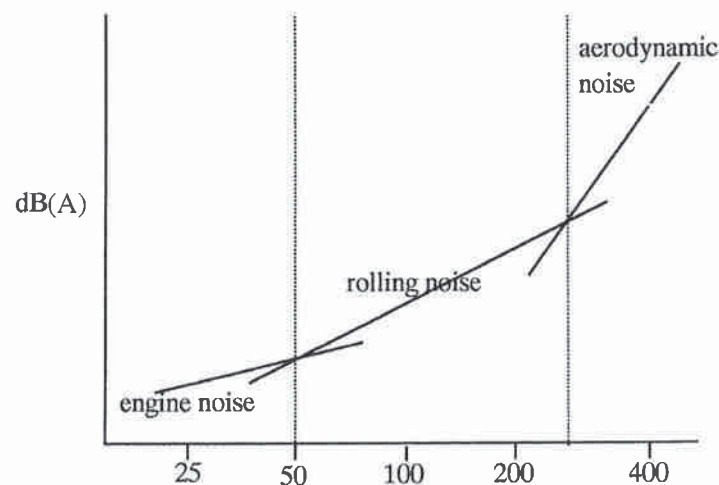


Fig. 2. Noise level of different noise sources at different train speeds.

is a positive relationship between the train's speed and the noise emission level, and how at different speeds different sources of noise dominate. When stationary and at speeds below 50 km/h engine noises are the predominant noise source of a train. At speeds between 50 and 300 km/h rolling noise becomes the most important noise source, while at speeds above 300 km/h the rolling noise is increasingly dominated by aerodynamic noise.

Train speed usually varies from 50 to 300 km/h, so it follows that rolling noise—and to a lesser degree engine noise—causes the most noise annoyance. Noise emission reduction should then mainly focus on providing for smooth, flat rails and wheels, by e.g. more frequent filing of the rail and replacement of the current block brakes by more wheel-friendly brakes. Rolling noise can also be reduced by the construction of small noise screens on the vehicle or rails.

Measures to reduce the emission of curving noise are the construction of sufficiently wide curves, guidable wheels and lubrication of specific parts of the wheel. Using adequate muffling of the exhaust conduit and a proper positioning and embedding of the engine can reduce noise generated by diesel engines. Braking noise can be primarily reduced through an appropriate choice of material.

4.2. Noise dispersion

The dispersion of sound from an emission point is easily computed under normal conditions. The noise level, measured as the sonic pressure, for any given point location can be expressed as a logarithmic function of the noise level at the noise source and the distance between the points. The noise level approximately declines by 6 dB as the distance is doubled. For a line source the decline is about 3 dB (Lawaai-beheersing. *Handboek voor Milieubeheer*, 2001). A railroad track with relatively little traffic is in fact a number of point sources and not a line source. The noise level as a function of distance lies somewhere between that of a point source and a line source.

This simple relationship between noise emission and immission is disturbed by several complicating factors such as: the geometry of the area; the nature of the terrain; meteorological conditions; other noise sources and sound barriers. Artificial sound barriers can be used to reduce noise immission values for given emission values. Sound barriers are particularly effective since rolling noise is generated at a very low surface level.

5. Annoyance from railway noise

Although in most developed countries the population annoyed by railway traffic noise is considerably smaller than that annoyed by road traffic or aviation, it is an important issue. A pilot study by Rademaker et al. (1996) showed that 3.2% of the population in The Netherlands suffers from railway traffic noise annoyance, of which 1.3% suffers from serious noise annoyance. A questionnaire by the Organization for Applied Scientific Research in The Netherlands Miedema (1993) estimated the population suffering from such noise annoyance at approximately 6% of which approximately 1% suffer from serious noise annoyance.

Table 2 shows the percentage of the population in The Netherlands suffering from noise annoyance caused by various transport modes and noise levels according to an INFRAS/IWW

Table 2

Noise annoyance in The Netherlands caused by different transport modes

Noise source	55–60 dB	60–65 dB	65–70 dB	70–75 dB	>75 dB	Total
Road	34.0	16.0	2.7	1.0	0.3	54.0
Rail	4.5	0.9	0.3	0.2	0.13	5.6
Aviation	21.0	12.0	2.0	0.7	0.3	33.8

Source: INFRAS/IWW, 2000.

study (2000). According to this table a total 5.6% of the population suffers from railway noise; for road traffic or aviation noise this percentage is much higher. This table also shows that the noise annoyance percentage increases as the noise level increases. Another interesting result in this table is the fact that the relative importance of railway traffic versus that of road and aviation transport increases as the noise level increases. This indicates that at higher decibel levels railway traffic more likely causes noise annoyance than other transport modes. Also, the fact that residential areas are relatively dense around railway tracks explains the relatively large increase of annoyance as a result of higher noise levels. Residential construction tends to be high near railway stations and in highly urbanized parts of The Netherlands also zones near railway tracks further away from stations are intensively used for residential construction due to lack of space.

Fig. 3, based on data from a study by Aubree (1975), shows the degree of annoyance for various noise levels. It clearly shows that the number of seriously annoyed people increases as the noise level increases.

The effect of habituation to railway noise on the degree of annoyance was investigated in a Dutch study (Dongen et al., 1982). This study compares the annoyance percentages caused by a newly operational railroad line at two different moments; three and 21 months after the line became operational. We used data from this study to do an ordered probit analysis on the effects of the habituation to noise on the degree of noise annoyance, controlling for noise level.³ The results in Table 3 show that as people get accustomed to railway noise exposure, the degree of annoyance appears to decrease. The coefficient for noise level shows that there is a positive and significant relationship between noise level and the degree of noise annoyance. This is in accordance with the results from Fig. 2.

Table 4 shows the results of an ordered probit analysis based on data from the same study⁴ on the effect of the usage of a train on perceived annoyance, again controlling for noise level. The results show that the group of people that uses the railroad track generally exhibit a lower degree of annoyance than the non-user group. The coefficient of the noise level is again positive.

Further research (Peeters et al., 1982) shows that compared to road traffic noise, rail traffic noise is more annoying when listening to television or radio or during conversations and when

³ The degree of annoyance consists of four categories: not aware of the noise, not annoyed, annoyed and seriously annoyed. Noise level is a continuous variable, measured in dB(A). Habituation is measured by means of a dummy which has value 0 for observations shortly after the opening of the line and value 1½ years later.

⁴ The degree of annoyance and the noise level are measured in the same way as in the previously mentioned probit model. The usage dummy has value 1 if a person uses the railroad line for transportation purposes and value 0 if he or she does not use the railroad line.

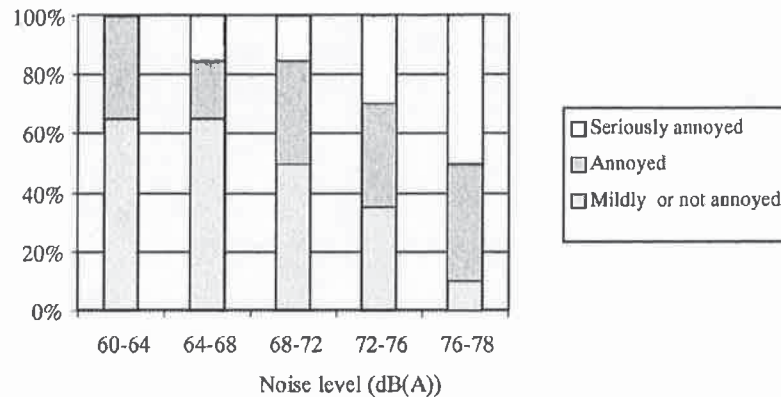


Fig. 3. Degree of annoyance due to noise level.

Table 3

Ordered probit model estimates of the effects of habituation to noise on the degree of annoyance

	Coefficient	T-value
dB(A)	0.186	8.664
Habituation to noise	−0.368	−2.446

Source: Own estimates based on micro data in Dongen et al. (1982).

Table 4

Ordered probit model estimates of the effects train usage on the degree of annoyance

	Coefficient	T-value
dB(A)	0.412	3.822
Usage dummy	−1.745	−3.342

Source: Own estimates based on micro data in Dongen et al. (1982).

performing tasks that demand concentration. Rail traffic noise causes less general, non-specific annoyance. The most annoying elements of railway traffic are freight trains, work on the line, and signalling. Further research results are that the orientation of the house with respect to the railroad track, parallel or perpendicular, and the layout of the house are important for the annoyance one experiences. Quality of the facade insulation has no demonstrable influence. Non-auditive annoyance as risk in connection with children, pollution, obstruction, and disturbance of the television picture are more prominent with people who are little exposed to railway noise. Individual differences in experiencing railway traffic noise are large. These differences in annoyance for a given noise level can be explained partly by the following factors: attitude towards the railway as an environmental element, view on the railroad track from the living-room, sensitivity to noise, annoyance experienced from other noise sources and satisfaction with the quality of the house.

6. The economic valuation of railway noise

6.1. Introduction

The fact that noise annoyance caused by railway traffic is small compared to road traffic and aviation is also reflected in the costs of noise annoyance. Table 5, based on data from a study by INFRAS/IWW (2000), shows the annual costs of noise per transport mode for a set of 17 European countries. The total costs of noise sum up to 0.65% of the total GDP in these 17 countries. The share of the costs from rail noise is 5.3% of the total noise costs. This is consistent with the data in Table 2 where the share of rail noise annoyance was 5.6% of total noise annoyance. The share of costs from rail noise varies among countries from 0.5% in Norway to 17.5% in Switzerland.

There are various methods to evaluate the costs of noise annoyance. A distinction is made between direct and indirect damage costs and prevention costs.⁵ The goal of prevention is to reduce the damage costs, which increase more than proportionally as noise pollution increases. Prevention costs are more effective at higher noise pollution levels. An increase in prevention costs reduces the total amount of noise pollution, which in turn reduces the damage costs. Prevention measures are feasible as long as the marginal costs of prevention measures are lower than the marginal benefit (i.e. the marginal decrease in damage costs). Table 6 shows an overview of economic cost categories of noise pollution from rail transport.

In noise valuation studies direct damage costs are typically estimated by using hedonic pricing or contingent valuation methods. Indirect damage costs can be approximated by estimating the resulting productivity loss.

6.2. Indirect costs

Medical costs refer to physical as well as psychiatric medical treatment. Treatment related to hearing problems caused by noise pollution but also psychiatric treatment are examples of medical costs induced by noise pollution. Exposure of school buildings, medical premises and for residential areas to noise can affect the human capital stock, and indirectly the economy.

6.3. Direct costs: property value as a proxy

Direct costs of noise include the reduction of well-being. Although this reduction is hard to evaluate directly, and individually, in monetary terms, it changes economic behavior. Economic costs of the reduction can be estimated indirectly by looking at economic behavior.

A straightforward choice would be to use the hedonic pricing method. Differences in property values due to noise annoyance are observed, and it is tested whether property prices decrease as noise immission levels increase.⁶ Naturally, the amount of rail traffic per hour, the precise dis-

⁵ In this paper “prevention costs” refers to both abatement costs and avoidance costs.

⁶ A positive relation between noise level and noise annoyance is assumed.

Table 5
Annual noise costs in million dollars for a set of 17 European countries

	Road	Rail		Aviation	Total costs	Total share of GDP
		Passenger	Freight			
EUR 17	39492	1028	1393	3343	45256	0.65%
Share	87.3%	2.3%	3.1%	7.4%		

Source: INFRAS/IWW, 1994.

Table 6
Categories of economic costs of noise pollution from rail transport

Damage costs		Prevention costs
Direct	Indirect	
Reduction of “well-being” (partly reflected by property value decline)	Medical costs Loss of productivity	Reduction of rail related noise emission Reduction of vehicle related noise emission Reduction of the immision of noise Reduction of the annoyance about immitted noise

tance between the receiving property and the railroad track, prevailing wind conditions and the presence of noise barriers are all factors all affect the exact noise immission level and thus are reflected by property prices. The results of hedonic price studies are often summarized by a noise depreciation sensitivity index (NDSI). For example, an NDSI of 0.4% at a threshold value of 55 dB means that the percentual depreciation of property value can be expressed in terms of noise immission as: [immission value – 55 dB]0.4%. A drawback of this method is that buildings do not only differ in terms of noise immission, but in numerous other aspects as well. Even in an ideal situation with identical buildings, noise immission values often correlate with factors such as distance to public transport possibilities, number of cars in the neighborhood, etc.

The hedonic pricing method based on NDSI values has been used frequently in the context of airport noise evaluation and road transport noise evaluation but in the context of railway noise it has not yet been used. Cost-benefit analyses of railroad noise prevention measures sometimes use NDSI input values that are found in hedonic pricing studies on other noise sources, mostly road transport and aviation. These NDSI values vary between 0.2% and 1.3% (Schipper, 1999) depending on the source. In some studies on aviation noise even values of 3.5% are mentioned.

Not all studies that use a hedonic price method use an NDSI method to identify the relationship between noise level and property value. Such a relationship can also be identified indirectly through observing the differences in property values due to railroad proximity. The result can then in a similar way be summarized as a proximity depreciation sensitivity index (PDSI). The idea is that as the distance from the railroad track increases, the level of the noise from the railroad will decrease and hence the property value depreciation will decrease. The drawbacks of NDSI studies also apply to PDSI studies. A specific disadvantage of the PDSI is that it does not take into account travel intensities or actual noise levels. Additionally, results between NDSI and PDSI studies can show

Table 7

The relationship between residential property value and railway proximity

Data set	Price elasticity	<i>T</i> -value	Number of observations
All data	0.059	2.87	2152
Distance less than 200 m	0.04	0.93	623
Distance less than 100 m	0.102	2.09	305

Source: Strand and Vagnes, 2001.

variation because of the fact that the relationship between the distance to railroad track and noise level is not linear and is, moreover, disturbed by several complicating factors.

Strand and Vagnes (2001) use a log-linear multiple regression function to estimate a PDSI value based on selling prices, controlling for factors such as the net size and the age of the residential unit. They generally find positive relationships between the distance to a railroad track and the price of a residential building. As Table 7 shows, the coefficient for distance for the complete data set is positive and significant. The elasticity (PDSI) is 0.059. Table 7 also shows that for distances below 100 m, the elasticity is much larger.

A related, but less frequently used method to value noise annoyance is the contingent valuation method. Contingent valuation is based on the stated rather preference, or willingness to pay, than on revealed preference (actual behavior). The advantage of this method is that it can be applied to situations without free price formation. Also, the contingent valuation method may identify higher values that are most probably closer to the consumer surplus loss, which is not revealed by the hedonic price method (Feitelson, 1989). A disadvantage of the contingent valuation method is that the results may be biased because only intentions are measured. Table 8, from a study by Weinberger et al. (1991) shows the monthly willingness to pay for noise reductions for different levels of actual noise exposure. As expected, the willingness to pay is higher for larger noise reductions. The pattern illustrated in Table 7 is consistent with a downward sloping demand curve for silence.

This study shows another disadvantage of using contingent valuation method. The use of questionnaires necessitates to distinguish categories instead of unambiguous decibel data when formulating questions. This leads to subjectivity.⁷ Also, compared to the hedonic price method the categorical approach results in a loss of informational value of the results.

6.4. Prevention costs

Prevention costs can be classified according to three different types of prevention measures: reduction of noise emission, reduction of noise immission and reduction of noise annoyance (Table 6). Examples of prevention costs are costs related to the placement of noise control barriers, costs related to vehicle noise control, renovation costs and costs related to building relocation. Economically, only in a situation where prevention costs are lower than damage costs, preventive measures should be carried out—or at least carried out up to the point where the

⁷ Interviews can be complemented with audio support to present noise levels in an objective way.

Table 8
The monthly willingness to pay for noise reduction

Actual noise level (during daytime)	60–65 dB(A)	65–75 dB(A)
Willingness to pay for 'no noise'	\$24.7	\$28.9
Willingness to pay for 'little noise'	\$10.8	\$24.7

Source: UBA, 1991.

marginal costs of prevention become higher than the marginal damage costs. However, political interests sometimes interfere with economic principles. For example, government expenditures on prevention can be necessary to comply with noise emission standards, which may not be necessary from an economic point of view.

Economic valuation of noise annoyance requires that the consequences be expressed in monetary terms. Quite often noise annoyance can only be valued indirectly, for example, by using prevention costs as a proxy. A drawback of this method is that cost calculation heavily depends on the noise limit values instituted by the government. The data in Table 9, from a study by Weinberger et al. (1991) clearly shows this. A lower, stricter, limit value results in a higher number of 'overexposed' persons. This leads to higher abatement costs to comply with the limit values.

A somewhat different approach is taken in a study by Tyssen (1982) on the consequences of different limit values for railway noise for existing housing construction plans. The calculations were repeated on the premise that protective noise barriers would be constructed, and the costs of such barriers were estimated. Table 10 shows the results of this study. In a situation where less stringent limit values apply, the number of planned residential units that require additional noise

Table 9
Costs of noise screens for various limit values

Limit value (day/night)	Number of persons 'overexposed'	Total costs in billion \$	Costs per person per year
70/60 dB(A)	1,950,000	3.04	\$80.2
75/65 dB(A)	670,000	1.27	\$98.0

Source: UBI, 1991.

Table 10
Prevention costs of different noise limit values

Limit value	Number of residential units that require noise reduction measures	Costs of screens ($\times 1$ million \$)	Costs per residential unit
60 dB(A) overall	9465	14.5	1532
60/65 dB(A) combination	6575	11.3	1718
65 dB(A) overall	5530	9.3	1670
65/70 dB(A) combination	240	55.0	2089
70 dB(A) overall	1910	4.2	2200

Source: Tyssen, 1982.

measures is lower. Hence, the total costs of the noise barriers needed to build these planned units is lower. From these results, an implicit economic valuation of noise may be derived. A noise limit of 60 dB is, at 14.5 million dollar, more than three times as expensive to sustain as a limit of 70 dB, which only costs 4.2 million dollar. Obviously, having reached a noise level of 70 dB it will cost 11.3 million dollar to decrease the noise level with an additional 10 dB. In other words, when a noise limit value of 60 dB applies, an increase in the noise level from 60 to 70 dB leads to an implicit noise prevention cost of 11.3 million dollar, or about 1.1 million per dB(A).

An interesting observation that follows from the last column in Table 10 is that the cost effectiveness of the construction of noise barriers is higher in situations where more stringent limit values apply. This observation is also consistent with the result in Table 9. the reason is that the number of buildings that are planned but cannot be constructed without noise barriers is higher in situations with more stringent limit values.

Oertli and Wassmer (1996) looking at the cost-effectiveness of noise barriers on a specific railroad segment take a somewhat different approach. They assume a fixed budget and calculate a cost-benefit index for four different scenario's, in which they look at the decrease in dB(A) and the number of people that actually benefit from the noise barriers. They calculate the cost-benefit index (CBI) as:

$$\text{CBI} = \frac{\text{yearly costs}}{N[\text{dB}(\text{old}) - \text{dB}(\text{new})]}$$

The CBI's, which can be interpreted as the cost per dB(A) reduction per person, calculated for the four different scenario's range from \$17 to \$142. In a similar way as the results in Table 10 these indices can be interpreted as economic valuations of noise prevention.

In this section a number of studies were discussed to illustrate the different methods used in the literature to evaluate the costs of railroad noise. Most of the literature on noise evaluation focuses either on prevention costs or on damage costs. The studies that focus on prevention costs, usually government research, typically report costs for various limit values, or individual costs and noise reduction for a variety of measures (KPMG, 2000) without paying attention to the benefits by valuating the noise reduction. Even studies that do compare prevention costs and damage cost reduction in the form of a cost-benefit analysis usually value the noise reduction with an NDSI value found in other research on noise valuation, usually non-rail based (Nijland et al., 2001). As such, theoretical insights (e.g. marginal cost- and benefit behaviour) have not yet been properly applied to empirical research and project evaluation within the field of rail noise.

7. Conclusions

The economic valuation of rail transport is economic valuation is very limited. This is primarily because compared to road and aviation transport, noise pollution of rail transport is seen as less importance. Of 17 European countries, the share of rail noise costs in total noise costs ranges from 0.5% to 17.5%, with an average share of 5.4%. A noise chain system can be identified that leads from rail system characteristics, such as frequency, speed and railroad condition, via noise emission and immission to noise annoyance, and ultimately results in the economic costs of noise.

Several factors are identified that influence such causal relationships. The relationship between noise emission and immission is disturbed by complicating factors such as weather conditions, distance between the railroad track and the immission point and natural and artificial barriers. As expected, the decibel immission level is positively related to the degree of annoyance from railroad noise. Furthermore, the degree of habituation to railroad noise negatively affects the degree of annoyance. The fact whether or not people make use of a specific railroad track also has an effect on their noise experience. Users exhibit a lower degree of annoyance than non-users.

An important aspect of economic valuation of noise is the interaction between prevention costs and direct damage costs of noise pollution. Noise prevention policy can be aimed at several components of the railroad noise chain (e.g., emission and immission reduction). The inclusion of the government as a system component in the noise chain generates a feedback loop between the economic costs and the intermediate components of the noise value chain, so that the noise value chain becomes a closed system.

Government policy in this respect is often based on cost-benefit studies that analyze the trade-off mechanisms between direct costs and prevention costs. Cost-benefit studies on railroad noise policy generally use NDSI values from hedonic pricing studies on noise valuation of road transport and aviation transport as input values. The implicit assumption of transferability of such index values is not completely accurate, though. Noise is a complex multi-faceted phenomenon. The social and economic consequences of noise pollution do not just depend on the noise level (which is hard enough to measure accurately itself), but also on noise characteristics such as the type of noise, frequency, temporal distribution and subjective characteristics including attitude, habituation, activity pattern. These factors complicate the easy transfer of NDSI values between cost-benefit studies on different transport modes. Even in the case of studies on the same mode, such value transfer should be undertaken with caution. We found only one study where a depreciation sensitivity index value is estimated based on railroad data. This study (Strand and Vagnes, 2001) used proximity to a railroad instead of noise level as the independent variable. In this study a price elasticity of proximity with value 0.06 is found. We also found some studies that investigate the prevention costs associated with different limit values. In both of these studies the level of total costs is higher for lower limit values. However, the cost per person or per residential unit is lower for lower limit values.

A statistical comparative analysis on the economic valuation of rail noise proved difficult due to the fact that the number of studies we found on this subject is limited and the methods used for economic valuation in the underlying studies show considerable heterogeneity (Appendix A). A more extensive and homogeneous set of case-studies is required to successfully apply meta-analytical methods in order to uncover useful information from the existing literature on the economic evaluation of noise pollution from rail transport. Several other directions for future research come to mind. One is the need for a comparative contingent valuation and hedonic price study. A second is the need for comparative cross-section research, for instance in Europe. Such research would be particularly interesting as the same line and same train goes through cities in different countries. Thus it can be questioned whether the same train on the same rail causes the same level of annoyance in different countries. Further, it can also be tested whether in such a set-up the same level of annoyance leads to the same level of damage value, controlled for differences in the environment.

Appendix A. Overview of studies on the economic valuation of railway noise

Study	Year	Effect size type	Effect size estimations	Evaluation method	Prevention measure	Location	Within-study variation
Strand and Vagnes	2001	Property value elasticity of distance	0.102–0.059	Hedonic pricing	NA	Norway	Proximity circles
Ellwanger	1987	Total costs of noise in Germany many per 1000 passenger kilometers	\$0.82	Hedonic pricing	NA	Germany	Passenger transport versus freight transport
INFRAS/IWW	1995	Costs of noise annoyance per annoyed person for a given decibel level per year	\$56 (55–60 dB) \$224 (60–65 dB) \$560 (65–70 dB) \$1118 (70–75 dB) \$2114 (>75 dB)	Hedonic pricing	NA	Sweden	Noise level ranges
van Kempen	2001	Total property value depreciation due to noise in The Netherlands for a given decibel level range	\$652.1 mln (56–60 dB) \$781.5 mln (61–65 dB) \$535.28 mln (66–70 dB) \$289 mln (71–75 dB) \$133.1 mln (76–80 dB) \$40.5 mln (>80 dB)	Hedonic pricing	NA	The Netherlands	Noise level ranges
		Total property value depreciation due to noise in The Netherlands for a given decibel level range	\$637.5 mln (56–60 dB) \$764.1 mln (61–65 dB) \$535.28 mln (66–70 dB) \$291.7 mln (71–75 dB) \$130.3 mln (76–80 dB) \$39.2 mln (>80 dB)	Contingent valuation	NA	The Netherlands	Noise level ranges

Weinberger et al.	1991	Willingness to pay per person per month for a given noise reduction	\$10.83 (60–65 dB to 'little noise') \$24.67 (60–65 dB to 'no noise') \$24.67 (65–75 dB to 'little noise') \$28.88 (65–75 dB to 'no noise')	Contingent valuation	NA	Germany	Actual noise level and 'proposed' level
Oertli and Wassmer	1995	Costs per decibel reduction per inhabitant per year	\$17–142	Abatement costs	Noise barriers	Switzerland	Different scenario's
Tyssen	1982	Direct costs per residential unit to comply with a given limit value	\$1532 (60 dB) \$1718 (60/65 dB) \$1670 (65 dB) \$2089 (65/70 dB) \$2200 (70 dB)	Abatement costs	Noise barriers	The Netherlands	Different limit values of noise levels
Weinberger et al.	1991	Costs per person per year to comply with a given limit value	\$98.0 (75/65 dB) \$80.2 (70/60 dB)	Abatement costs	Noise barriers	Germany	Different limit values of noise levels
KPMG-BEA	1998	Costs per decibel reduction	Various noise source related cost drivers	Abatement costs	Various noise source related measures	The Netherlands	Prevention measures and train type

References

- Aubree, D., 1975. La Gêne due a Bruit des Trains, Centre Scientifique et Technique du Bâtiment (C.S.T.B.), Nantes.
- Dongen, J.E.F., de Jong, R.G., van den Berg, R., 1982. De Gewenning aan het Geluid van een Nieuwe Spoorlijn te Zoetermeer. IMG-rapport D 50.
- Feitelson, E., 1989. A property rights approach to transportation noise: the Israeli case in perspective. *Transportation Research* 23A, 349–358.
- Heijungs, R., 2001. A theory of the environment and economic systems, a unified framework for ecological economic analysis and decision-support, Edward Elgar, Cheltenham.
- INFRAS/IWW, 2000. External Costs of Transport. Study for the International Union of Railways. Paris.
- KPMG-BEA, 1998. Stillere Treinen: een Bron van Besparingen. Hoofddorp.
- Lawaai beheersing. Handboek voor Milieubeheer., 2001. Samsom H.D. Tjeenk Willink.
- Miedema, H.M.E., 1993. Response functions for environmental noise in residential areas, Rapportnummer.1993/1, NIPG/TNO, Leiden.
- Nijland, H.A., van Kempen, E., Jabben, J., Annema, J.A., 2001. Geluidmaatregelen: Kosten en Baten. RIVM rapport 715120005. Bilthoven.
- Oertli, J., Wassmer, D., 1996. Rail noise control in Switzerland: legislation, environment, politics and finances. *Journal of Sound and Vibration* 193, 403–406.
- Peeters, A.L., de Jong, R.G., Kaper, J.P., Tukker, J.C., 1982. Hinder door Spoorweggeluid in de Woonomgeving. IMG-TNO. Rapport nr. D60. Delft.
- Rademaker, B.C., Schotten, C.G.J., Staatsen, B.A.M., 1996. Berekening van het Aantal Geluidgehinderden door Railverkeer in Nederland. RIVM rapport 715101004. Bilthoven.
- Schipper, Y., 1999. Market Structure and Environmental Costs in Aviation. A Welfare Analysis of European Air Transport Reform. Doctorate Thesis. Tinbergen Institute Research Series no. 217.
- Strand, J., Vagnes, M., 2001. The relationship between property values and railroad proximity: a study based on hedonic prices and real estate brokers' appraisals. *Transportation* 28, 137–156.
- Tyssen, L., 1982. Consequenties van Voorgenomen Woningbouwplannen van het Aanhouden van Grenswaarden met betrekking tot Spoorweglawaai. Rapportnummer 4893-A. Delft.
- van Kempen, E.E.M.M., 2001. Een Schatting van de Baten van Geluidmaatregelen. RIVM rapport 715120004. Bilthoven.
- Weinberger, M., Thomassen, H.G., Willeke, R., 1991. Kosten des Lärms in der Bundesrepublik Deutschland. Umwelt Bundes Amt Berichte 9/91.

The Effect of Freight Railroad Tracks and Train Activity on Residential Property Values

by Robert A. Simons, PhD, and Abdellaziz El Jaouhari, PhD

The benefits of transportation in linking markets and generating positive externalities are well established in economic theory. Access to transportation links, such as highway interchanges, airport hubs, train stations, and boat landings, is a positive factor. However, being too close to transportation uses that are far away from access links can have a negative effect on property values due to the nuisance and potential problems of accidents. This is particularly true for railroads that crisscross the country carrying freight and have very few access points. For freight railroads, the access points are not directly used by residential property owners. In addition, there is train noise and whistle blowing as the trains pass by, the fear of accidents exists, and potential for other related nuisances. The main questions addressed by the research here are how much markets discount houses near railroad tracks and whether the discount decreases with distance from the track and less freight trip volume.

Variables Related to Railroad Freight Lines

Periodically, train companies merge and consolidate track activity; sometimes this can lead to changes in trip volumes on specific segments. Because proximity to train tracks is considered a nuisance, nearby property values can be affected. The effect could be related solely to proximity or to the volume of activity (e.g., freight train cars passing by the property). Effects may also be more pronounced on properties adjacent to where the freight lines cross streets. Also, if trip counts change due to rerouting, would there be any differential effect on property values? This study finds that rail traffic, as opposed to simply proximity to tracks, makes a difference in the sale price of residential properties. Further, publicity is found to increase public awareness of this issue.

In the Cleveland, Ohio area in the mid- to late-1990s, CSX Corporation (CSX) and Norfolk Southern Corporation (Norfolk Southern) decided to reorganize and acquire another railroad, Consolidated Rail Corporation (Conrail). An environmental impact statement (EIS) was done to determine track

abstract

This study evaluates the impact of freight railroad tracks on housing markets. A hedonic price model is used to estimate reduction in the sale price of residential properties near freight railroad tracks in Cuyahoga County, Ohio for 1996 and 1999. The findings indicate an average loss in value between \$3,800 and \$5,800 (5%–7%) for houses under 1,250 square feet located within 750 feet from a railroad track. Larger houses showed mixed results. After substantial publicity about a freight train company merger, freight trip counts showed a negative and statistically significant impact on the sale price of smaller houses, and some larger houses, for each additional daily freight train trip.

reconfiguration. Freight trip counts on various segments were scheduled to change. Beginning in 1997, there was a lot of publicity regarding the reconfiguration, and the railroad lines negotiated with various cities about the impacts of the train reconfiguration on property values. Cities received millions of dollars, but none of the money went toward property damage awards. By 1999, the EIS process had been completed and changes to track volumes had been implemented.

This study examines the "before" and "after" of the reconfiguration in freight railroads in Cuyahoga County, Ohio, and comments on the inclusion of property damage awards in a process of this type. The study focuses on the effect of freight-carrying railroad tracks on single-family housing in Cuyahoga County, Ohio, which includes a total of 15 rail segments with over 50 miles of track. After a review of the extant literature, this article discusses the study area, data collection, and variables. Size-stratified hedonic regression models of the county residential real estate market are developed, and the proximity to railroad tracks is tested in various forms. The results are presented, as well as conclusions and implications for appraisers.

Overview and Literature Review

This study was inspired, in part, by a project done in a graduate urban planning class on the factors affecting the desirability of an urban neighborhood. A questionnaire was administered in person to 105 prospective homebuyers of inner-city homes on the near-west side of Cleveland, Ohio, during the summer of 2000. The questions mainly related to neighborhood characteristics that could have a positive or a negative effect on housing values. Residents were asked to weigh their willingness to live close to various urban factors (e.g., an auto junkyard, interstate, railroad tracks, city park) on a seven-point scale, where -3 was strongly negative and +3 was very desirable. The results of the questionnaire are shown in Table 1.

The least desirable site characteristics were junkyard (-2.81), leaking underground storage tank (LUST) (-2.71), and factory (-2.60). Living next to a train track had the next most negative score of -2.07, closely followed by proximity to a highway and main street (both about -1.9). Scores ranged up to +2.2 for lake views.¹

Table 1 Survey of Prospective Homebuyers in Cleveland, Ohio: Urban Disamenities and Amenities

Site Characteristics	Scale of the Results
Next to an auto junkyard	-2.810
Next to a gas station with a tank leaking petroleum	-2.709
Next to a factory	-2.600
Next to a train track with about 15 trains per day	-2.067
Next to an interstate highway	-1.990
On a main 4-lane street	-1.933
Has no basement	-1.598
On a former brownfield; cleaned to state risk-based standards	-1.231
Next to a retail complex	-1.019
Next to a grade school	-0.567
Ohio City, south of Lorain Avenue	-0.388
Next to a new cemetery	-0.320
On a former brownfield; cleaned "clean enough to eat the dirt"	-0.192
Next to a secure and historic water tower park	-0.019
Has affordable housing mixed in	0.010
Next to old cemetery with trees	0.590
Next to a city park	0.683
View of downtown skyline	1.733
View of Lake Erie	2.229

n = 105

Effects of Other Linear Urban Uses on Residential Property

Roads are a linear land use similar in some ways to railroad tracks. Hughes and Sirmans found a significant 1% negative change in residential property values for each 1,000 annual average daily traffic (AADT) in city areas, and a 0.5% change per 1,000 AADT in suburban areas in Baton Rouge, Louisiana.² A related study by the same authors showed an 11% decrease in value for houses on high traffic streets, compared with low traffic streets.³ However, this study did not explicitly control for street design. This same research also showed an average reduction of 0.8% in property values per 1,000 AADT.⁴ For a typical collector street with 5,000 to 10,000 more trip counts per day than a purely residential street, this would equate to a 5%–10% reduction in property values, holding all else constant.

1. Some of these items have been empirically tested. Leaking underground storage tanks, for example, have been linked to a 13%–17% reduction in residential property value in the same Cuyahoga County, Ohio area. See Robert A. Simons, William Bowen, and Arthur Sementelli, "The Effect of Underground Storage Tanks on Residential Property Values in Cuyahoga County, Ohio," *Journal of Real Estate Research* 14, no. 1/2 (1997): 29–42. Because this score was worse than for the railroad tracks, the expected result should be less than this amount.

2. William T. Hughes Jr. and C.F. Sirmans, "Traffic Externalities and Single-Family House Prices," *Journal of Regional Science* 32, no. 4 (1992): 487–500.

3. William T. Hughes Jr. and C.F. Sirmans, "Adjusting House Prices for Intra-Neighborhood Traffic Differences," *The Appraisal Journal* (October 1993): 533–538.

4. Ibid.

Another linear and visible type of land use that is somewhat similar to railroad tracks is high-voltage overhead electrical transmission lines (HVOTL). Studies by Colwell, and Kinnard and Dickey showed a significant reduction of 5%–8% in residential property values within a few hundred feet of the transmission lines.⁵ Another use similar to trains in its linearity is pipelines. In a study of the effect of a pipeline rupture on non-contaminated residential property on the pipeline easement in Fairfax County, Virginia, Simons estimated that single-family housing experienced a loss in value of 4%–5% after the rupture.⁶

Rail Impact Studies

Noise, especially from train horns, is the primary negative externality generated by train traffic. A study by Rapoza, Rickley, and Raslear⁷ found that residents living within 1,000 feet of a railroad track were severely annoyed by train horns. Consistent with this unsurprising finding, many communities have enacted regulations to ban the use of train horns especially during nighttime hours to reduce the interference of train noise with the comfort of local residents. However, numerous studies funded by the Federal Railroad Administration (FRA) have proven that banning train horns increases fatalities and that the bans are costly to both residents and railroad companies.⁸

The FRA's numerous studies on the impact of noise on communities have also evaluated the effectiveness of warning systems, specifically the wayside train horn at crossing sections. A study conducted by the U.S. Department of Transportation and the FRA indicated that the use of railroad horns in addition to wayside horns could reduce accidents by 69%. The same study surveyed actions taken by residents to reduce the interference of noise with their daily activities. While most residents, as reported by the study, would stop talking or close windows, 14% considered moving.⁹

Most studies measure the frequency and level of noise to assess their impact on residents or property values. Few studies have examined the effect of proximity to a railroad track in terms of distance. Clark used distance from a railroad track to measure loss in property values for the mostly rural districts of Middletown and Niles in Ohio.¹⁰ The findings indicate property values decreased by 2.1% in Middletown and 2.8% in Niles for every additional rail line within a buffer of ¼ mile. The loss is even higher for properties located near a crossing section where the use of train horns is more frequent. Another study in Oslo, Norway, looked at the relationship between tracks and residential sale price, based on pure proximity. Residential sale price decreased by up to 7%–10% within 100 meters (about 330 feet) of a railroad track.¹¹ These results were derived from both hedonic modeling and a type of contingent valuation analysis done by real estate salespeople.

To summarize, the benefits of railroad transportation in connecting markets are well established in economic theory but there is still a tension between the need for safety and the need to reduce the level of annoyance generated by railroad activities. Based on previous train studies and the negative effect on property values from other similar urban land uses, property value decreases in the single digits are expected from trains and train traffic.

Railroad Merger in Cleveland

Railroads sometimes merge and consolidate. As previously noted, in Cleveland this began in 1997 as CSX and Norfolk Southern sought to combine operations, acquire Conrail, and streamline and consolidate track utilization in Cuyahoga County. The negotiations were accompanied by an environmental impact statement that examined reconfiguring lines and train volumes. Trip counts on various segments ranged from 0–75 trips per day before the

5. Peter Colwell, "Power Lines and Land Value," *Journal of Real Estate Research* 5, no. 1 (Spring 1990): 117–127; William Kinnard and Sue Ann Dickey, "A Primer on Proximity Impact Research: Residential Property Values Near High Voltage Overhead Transmission Lines," *Real Estate Issues* 20, no. 1 (1996): 23–29.

6. Robert A. Simons, "The Effect of Pipeline Ruptures on Noncontaminated Residential Easement-Holding in Property in Fairfax County," *The Appraisal Journal* (July 1999): 255–263.

7. Amanda S. Rapoza, Edward J. Rickley, and Thomas G. Raslear, "Railroad Horn Systems Research," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. DOT-VNTSC-FRA-98-2, 1998.

8. John P. Aurelius and Norman Korobow, "The Visibility and Audibility of Trains Approaching Rail-Highway Grade Crossings," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. FRA-RP-71-2, 1971 (available through National Technical Information Service, Springfield, VA); Amanda S. Keller and Edward J. Rickley, "The Safety of Highway-Railroad Grade Crossings: Study of the Acoustic Characteristics of Railroad Horn Systems," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. DOT/FRA/ORD-93/25, 1993.

9. Jordan Multer and Amanda Rapoza, "Field Evaluation of a Wayside Horn at a Highway-Railroad Grade Crossing," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. DOT/FRA/ORD-98/04, 1998.

10. David E. Clark, "Ignoring Whistle Bans and Residential Property Values: A Hedonic Housing Price Analysis" (working paper).

11. Jon Strand and Mette Vagnes, "The Relationship Between Property Values and Railroad Proximity: A Study Based on Hedonic Prices and Real Estate Brokers' Appraisals," *Transportation* 28 (2001): 137–156.

merge, with 15–30 trains per day being typical. The reconfiguration was finalized and operational by 1998. As a result, some lines experienced substantial reductions in traffic (e.g., from 50 per day down to 5 per day), some increased (10 to 45 per day), while other segments remained the same.¹²

Beginning in 1997, there were many news reports regarding the impact of the merger, and the railroad lines negotiated with various cities about the impacts of the train reconfiguration on property values. Cities received considerable sums of money. For example, East Cleveland, with a population of about 33,000 in the year 2000, received \$4 million; Cleveland, population 493,000, received over \$20 million; and Lakewood, population 50,000, also received a multimillion-dollar award. These funds went toward noise mitigation and safety improvements; no monies were allocated to reductions in property values. By 1999, the EIS process had been completed and changes to track volumes had been implemented. This article examines the “before” (1996) and “after” (1999) of this decision in the Cuyahoga County, Ohio, residential resale market.

Model and Research Questions

The initial research question examines whether railroad tracks have the expected negative effect on nearby, single-family house prices. The second question examines whether the negative effect declines with distance from railroad tracks. It is expected that the loss in value of properties within 250 feet from the railroad tracks would be higher than the loss in value of properties located within 750 feet from the railroad tracks. If this holds true, it supports the notion of a gradient effect from the tracks. If there were negative effects but not decreasing with distance, then a zonal effect would be evident. Third, trip volumes (instead of pure proximity) are tested for their effect on sale prices, and whether this effect is stable over time when trip volumes change and the changes are publicly known. Proximity to railroad crossings, where noise and fear of accidents are expected to negatively impact sale prices, is also examined.

The hedonic regression model states that single-family housing sale price is a function of structural characteristics of the house, neighborhood characteristics, and its distance from railroad tracks. With respect to the model presented below, we expect β_3 (sale within several hundred feet of a freight line), β_4 (freight train traffic), and β_5 (gated railroad crossing) to be negative.

A reduced form of the hedonic model is used and is expressed as:

$$P = \beta_0 + \beta_1 S + \beta_2 Z + \beta_3 BUFF + \beta_4 TTRIPS + \beta_5 CROSSING + \varepsilon$$

where:

P = Sale price of the house

S = Vector for structural characteristics of the house

Z = Vector that consists of dummy variables for zip codes; a proxy for neighborhood characteristics

$BUFF$ = Dummy variables attached to properties located within 250, 500, and 750 feet from railroad tracks

$TTRIPS$ = Number of daily freight trains passing in both directions for the segment nearest each house within a railroad track's buffer

$CROSSING$ = Proximity to gated railroad crossing

ε = Error term

Because of potential market stratification issues, the data set is divided into three approximately equal parts based on building square footage. Parallel analyses are run for each market segment and compared.¹³

Study Area and Data Collection

The study area for this research is Cuyahoga County, Ohio; Cleveland is the main city in the county. The population of the city and county in the year 2000 was about 0.5 million and 1.6 million, respectively.

Data Collection

The data used for this research is from the Northern Ohio Data Information Service (NODIS) of the Maxine Goodman Levin College of Urban Affairs at Cleveland State University. House sale prices were obtained from Amerestate, Inc. data, based on county records, and were collected for all transactions that occurred during 1996 and 1999. The county data set included a set of variables related to the characteristics of the house and lot, similar to those included in standard hedonic price studies. Table 2 presents a description of the structural variables included in the hedonic model with descriptive statistics for year 1999. Overall, the typical house sold for \$108,800, contained 1,600 square feet of living area, 1.6 garage spaces, and 1.5 bathrooms. It was 61 years old, had a basement of 800 square feet, and sat on a lot of 8,700 square feet. The mean values for the three sizes of units are detailed in Table 2. The data set was split into three parts based on square footage of the units: under 1,250 square feet; 1,251 to 1,700 square feet; and over 1,700 square feet.

The smaller units had an average size of 1,050 square feet, and a sale price of \$81,000; the me-

12. Surface Transportation Board, Section of Environmental Analysis, Finance Docket No. 33388, Proposed Conrail Acquisition, 1998.

13. The authors would like to thank the reviewers for suggesting this analysis.

dium-sized units averaged 1,450 square feet and sold for \$97,900; and the largest group averaged 2,200 square feet and sold for \$138,500.

Dummy variables were also included for style and construction type. Only single-family residential units were included. Zip codes were employed to account for neighborhood characteristics and to capture the effect of distance from the central business district. A total of 38 dummy variables for the zip codes (with a minimal number of residential sales) were used. Because the zip code variables cannot be generalized, their results are of little interest and are not included (but are available upon request).

The data set contained over 33,000 house sale transactions that occurred in 1996 and 1999. The data cleaning process consisted of deleting all records that had data missing for the following variables: sale price, parcel number, zip code, building square footage, number of rooms, lot square footage, style and construction type specification, and age of the property.

Records clearly outside of a reasonable range that could be considered outliers were deleted. For sale price, only sales between \$5,000 and \$400,000 were retained for the analysis. Building square footage ranged from 500 square feet to 4,500 square feet. Properties with fewer than three rooms and those with more than 15 rooms were removed, as were properties with lot square footage of less than 2,000 square feet or more than 55,000 square feet. Finally, parcels with lot frontage of less than 20 feet or greater than 140 feet were excluded from consideration. The data set ended up with about 14,900 sales for the year 1996 and 17,800 sales for the year 1999.

Train Variables

Information on train activities was added to the real estate data set. A geographical information system (GIS) was used to link neighborhood and structure information to data on properties located within 250 feet, 500 feet, and 750 feet from railroad tracks. A buffer for the specified distance was created from both sides of the track to include only parcels located within that distance, allowing creation of the dummy variables BUFF250, BUFF500, and BUFF750. The number of annual sales of smaller-sized units, within the distance buffer was 92, 201, and 269, respectively, for BUFF250, BUFF500, and BUFF750. Variables were also created for average daily freight train traffic, based on the number of freight train trips in 1996 and 1999 for each of about 15 different rail segments within Cuyahoga County. Trip data was unavailable for a few freight lines, and these were treated with a dummy variable. We also included buffers of up to 750 feet for proximity to gated train crossings. Because a few freight segments also serve rapid transit, the models also controlled for proximity to rapid transit lines and transit stations.

Regression Diagnostics

The variance inflation factor (VIF) index was used to check for the multicollinearity problem in the larger data set. Some variables such as number of rooms and bedrooms, and lot depth and width had a high VIF and were discarded from the model. For other variables, the multicollinearity was not severe, but for some cases like the fireplace variable, it generated a coefficient with a sign that was not consistent with theory. It also was removed from the model.

Table 2 Descriptive Mean Statistics for 1999

Variable	Small Units Under 1,250 Sq. Ft.	Medium Units 1,251–1,700 Sq. Ft.	Large Units Over 1,700 Sq. Ft.
Sale price	\$ 81,007	\$ 97,851	\$ 138,510
Building sq. ft.	1,049	1,454	2,205
Garage capacity	1.38	1.54	1.75
Number of baths	1.03	1.18	1.80
Basement sq. ft.	682	745	913
Lot front feet	46.80	50.14	59.01
Lot sq. ft.	6,591	7,500	9,707
Age in years	60.79	65.30	59.53
Valid sample size	6,068	5,804	5,917

n = 17,789

For heteroscedasticity, scatter plots of the dependent variable and model residuals were examined for fanning. None appeared to be present.

Empirical Findings

The initial models (not shown here due to space considerations) were prepared for the large data set.¹⁴ The use of dollars per square foot (\$/SF) as the dependent variable was investigated, but results were much less satisfactory than the linear form used in later runs.¹⁵ Table 3 shows the results of the structural variables for 1999 along with train buffers, without freight train trip counts or crossings, for the size-stratified sales data. Overall, the models fit the data well for 1999. The independent variables included in the model explain 62% of the variation in the dependent variable for the smallest units, and 77% for the largest units. The *F*-statistics were 133 to 265, and significant at the 99% level or better. The signs of the coefficients are as expected for the structural variables and are consistent with the findings of previous research in the Cleveland area.¹⁶

The statistical significance, the sign, and the magnitude of the coefficient for structural variables are as expected and consistent with theory. For example, for the building square footage variable, every additional square foot will increase the sale price by \$21 for the smaller units and by \$35 for the largest units. Every additional year in the age of the house will decrease the sale price by \$367 for the smallest units and by \$678 for the largest units. Garage space adds \$4,630 to \$4,770, and a square foot of lot size adds \$0.48 for smaller units and up to \$1.86 for the largest ones. All these are significant at well over a 90% confidence level.¹⁷

The train variables (BUFF250, BUFF500, and BUFF750) are generally consistent with theory and had the right sign. However, statistical significance was only apparent at the 95% level for the units un-

der 1,250 square feet. For this group the results show that for 1999, houses located within 250 feet of railroad tracks sold for \$4,400 less than other houses in the reference category. The loss changed somewhat with distance from the tracks, and decreased to about \$3,800 less for houses located 251–500 feet away. However, the loss then increased to \$5,800 for houses within 501–750 feet of a railroad track. These losses average 5%–7% of the average sale price. Hence, the diminution in property values appears to flatten out because the results for sales within both 500 feet and 750 feet from a track (before consideration of trip counts) did not monotonically decrease. This suggests the markets perceive a zonal effect rather than a gradient effect for freight tracks.

For the medium-sized units, all zones had negative signs, but only the middle ring (251–500 feet away) was statistically significant at 95%. The magnitude of this discount was \$4,700 (about 5%). The same negative signs were apparent for the larger units, but no results were significant, even at an 85% level of confidence. Hence, it cannot be said that freight train tracks had a statistically significant effect on these units.¹⁸

A variable was also inserted to reflect proximity to a rapid transit station (Station RTA 1000 Feet). For smaller units, proximity to a station yielded a positive value from \$10,300 to \$12,500 (13%–15%) that was statistically significant at a 99% level of confidence. This indicates a value premium among those most likely to use rapid transit. Among the medium units, signs were negative but statistically insignificant. Among the larger units, they were positive but only statistically significant at about an 85% level of confidence, and barely at that level.

Moving along to the “before” and “after” effects of the information about the reorganization of freight train traffic, recall that the changes were announced in about 1997, that 1996 represents the “before” sce-

14. As with Table 3, the large model was run with structural variables and only a buffer around freight train lines. Overall, the model fits the data well for 1999. The independent variables included in the model explain 76% of the variation in the dependent variable. The *F*-statistics were over 750 and significant at the 99% level. The sign of the coefficients is as expected for the structural variables and is consistent with the findings of previous research in the Cleveland area. Of the 54 nongeneralizable variables that were included in the model (38 zip codes and other dummy variables for style and construction), about 40% were statistically significant at the 90% confidence level.

15. We also reran the basic 1999 model with train distance buffers and all ring configurations with the dependent variable as \$/building square foot. This means we eliminated building square foot from the right side of the model. The resulting models had a much lower *R* squared: .52 to .72 compared with .62 to .77 in the comparably configured models. The parameter estimates for smaller units were -\$4.30, -\$3.30, and -\$5.20, all significant at a 95% confidence level. Other results mirrored the model with the dependent variable using sale price. When the revised results are transformed into sale price at the average square footage of 1,050, the resulting price drops are \$3,500–\$5,500, almost identical to those found in Table 3.

16. Simons, Bowen, and Sementelli.

17. A 1996 baseline model for the large data set with the same variables was also run. The *R* squared was 0.80, and the *F*-statistic was over 810. The variable parameter estimates were consistent with theory and with the 1999 results.

18. The results over space should in theory decrease monotonically, but this is not always observed in practice. One explanation is that there is model misspecification, and this may be partly the case here, as evidenced by the superior and more logical results obtained by the model shown later in Table 4b which uses freight trips, as opposed to pure distance, to gauge impacts. Alternatively, results could be attributable to influential outlier sales. Finally, it could be that nuisance from track activity has a zonal (in or out of an affected area) rather than gradient (decreasing over distance within an impact zone) effect on property values. We have ruled out insufficient observations and multicollinearity as potential sources of difficulty on this issue.

Table 3 Effect of Proximity to Railroad Tracks, 1999

Small units under 1,250 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	45,571.41	0.00	45,687.44	0.00	49,375.77	0.00
Bldg. sq. ft.	20.99	0.00	20.91	0.00	20.89	0.00
Garage capacity	4,630.00	0.00	4,649.48	0.00	4,594.30	0.00
Bath number	3,069.35	0.04	2,940.55	0.55	2,833.87	0.06
Basement sq. ft.	14.75	0.00	14.79	0.00	14.73	0.00
Lot frontage	0.19	0.00	0.19	0.00	0.19	0.00
Lot sq. ft.	0.48	0.00	0.47	0.00	0.48	0.00
Age of house	-366.58	0.00	-365.55	0.00	-366.68	0.00
Station RTA 1,000 ft.	10,576.51	0.01	10,291.85	0.01	12,495.16	0.00
BUFF250	-4,384.95	0.03				
BUFF500			-3,816.25	0.00		
BUFF750					-5,809.50	0.00
Adjusted <i>R</i> Square	0.62		0.62		0.62	
Degrees of freedom	5,992.00		5,992.00		5,992.00	
<i>F</i> -statistic	133.17		133.29		133.87	
Durbin-Watson	1.75		1.76		1.76	
Medium units 1,251 to 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	84,888.26	0.00	84,958.68	0.00	84,951.02	0.00
Bldg. sq. ft.	30.83	0.00	30.79	0.00	30.86	0.00
Garage capacity	4,762.51	0.00	4,727.63	0.00	4,768.08	0.00
Bath number	4,538.45	0.00	4,516.23	0.00	4,521.53	0.00
Basement sq. ft.	8.34	0.00	8.32	0.00	8.36	0.00
Lot frontage	0.15	0.00	0.15	0.00	0.15	0.00
Lot sq. ft.	0.70	0.00	0.70	0.00	0.70	0.00
Age of house	-498.98	0.00	-497.07	0.00	-498.93	0.00
Station RTA 1,000 ft.	-5,586.79	0.33	-4,570.52	0.43	-5,447.28	0.35
BUFF250	-2,840.92	0.35				
BUFF500			-4,661.28	0.02		
BUFF750					-385.71	0.82
Adjusted <i>R</i> Square	0.64		0.64		0.64	
Degrees of freedom	5,728.00		5,728.00		5,728.00	
<i>F</i> -statistic	135.95		136.10		135.92	
Durbin-Watson	1.56		1.56		1.56	
Large units over 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	48,814.89	0.00	48,616.56	0.00	48,818.87	0.00
Bldg. sq. ft.	35.42	0.00	35.49	0.00	35.42	0.00
Garage capacity	4,771.95	0.00	4,768.55	0.00	4,766.54	0.00
Bath number	16,216.11	0.00	16,209.55	0.00	16,198.56	0.00
Basement sq. ft.	10.13	0.00	10.12	0.00	10.11	0.00
Lot frontage	0.28	0.00	0.28	0.00	0.28	0.00
Lot sq. ft.	1.86	0.00	1.85	0.00	1.85	0.00
Age of house	-677.67	0.00	-676.75	0.00	-676.61	0.00
Station RTA 1,000 ft.	5,670.17	0.17	5,241.39	0.22	6,021.75	0.15
BUFF250	-4,735.30	0.24				
BUFF500			-882.21	0.76		
BUFF750					-3,385.17	0.17
Adjusted <i>R</i> Square	0.77		0.77		0.77	
Degrees of freedom	5,840.00		5,840.00		5,840.00	
<i>F</i> -statistic	265.42		265.34		265.45	
Durbin-Watson	1.51		1.51		1.51	

nario, and that 1999 represents “after” the information became known. Tables 4a and 4b present results for 1996 and 1999, respectively. These models were run with the same structural and zip code variables, but without the train buffers. The new train variables FREIGHT TRIP 250 FEET, FREIGHT TRIP 500 FEET, and FREIGHT TRIP 750 FEET are of particular interest and reflect the number of train trips per day on each segment. Other new train variables include CROSS250, CROSS500, and CROSS750, which indicate distance from a gated train crossing, and RTA1000, which indicates proximity to a rapid transit track (but not station) carrying a number of shorter train trips (2–5 cars).

With respect to the volume of daily freight train trips (FREIGHT TRIP 250 FEET), the 1996 and 1999 models showed quite different results, as expected by theory. For 1996 (Table 4a), only smaller- and medium-sized unit sales had the expected negative sign, and only one cell (smaller units, 501–750 feet away, with a parameter estimate of \$80 loss per additional freight train trip) was statistically significant at a 90% or better level of confidence. One parameter estimate (largest units, 501–750 feet away) was positive and statistically significant.

For 1999 (Table 4b), however, after much publicity, the market was able to distinguish the effects of freight trips quite clearly. It was found that per average daily freight trip, sale prices of smaller units within 250 feet (TRIP250) went down by \$194. Sale prices of units between 251–500 feet dropped by \$85 and by \$94 on units between 501–750 feet per average daily freight trip.

All results were statistically significant at a 95% or better level of confidence.¹⁹ This generally reflects a gradient rather than zonal pattern.

For medium-sized units, it was found that per average daily freight trip, sale prices of units within 250 feet dropped by \$262. Sale prices of units between 251–500 feet fell by \$107 and by \$72 on units between 501–750 feet.

All results were statistically significant at 85% or better level of confidence, and the closest result was significant at a 95% level of confidence. This demonstrates a gradient pattern of impact.

For larger-unit sales within 250 feet, a price reduction of \$264 was evident, but it was only significant at an 85% level of confidence. Other results were not statistically significant. Thus, the results with freight train trips per day were improved in

terms of statistical significance, especially for small- and medium-sized units.

These models also address the effects of gated railroad crossings (CROSS250, CROSS500, and CROSS750) with freight trip counts in the models. For 1996, proximity to a railroad crossing is negative and mostly significant only for the group of smaller units, where units 251–750 feet from a gated crossing experienced negative results of about 5%, holding all else constant. They were not significant for most other categories of units. For 1999, all the losses associated with gated train crossings evaporated, except for the largest units 501–750 feet from a gated crossing. Hence, the overall results for gated crossings were mixed.

Finally, these same models also had a variable if a sale was within 1000 feet of a rapid transit track without a transit station (RTA1000). For 1996, only medium-sized sales showed negative and significant losses for this variable (about 10% of sale price). For 1999, the significant and negative losses (about 5%) associated with RTA1000 were confined to the sales of the smallest units. Hence, the overall results for proximity to rapid transit tracks were also mixed.

Conclusion

The results generated by the hedonic models for 1996 and 1999 are consistent with previous results in the literature. The structural variables are generally of the expected sign. For railroad-related variables, smaller houses of up to 1,250 square feet and located within 250 feet, 500 feet, or 750 feet of a railroad track experienced a statistically significant loss in sale price of \$4,300 within 250 feet, \$3,800 within 500 feet, and \$5,800 within 750 feet from a freight track line; this is equivalent to losses of 5%–7% of sale price. For the medium and larger units, many had negative signs, but only the middle ring (251–500 feet away) was statistically significant at a 95% confidence level, with a discount of about 5%. The lack of a consistent declining pattern implies that markets perceive a zonal rather than gradient effect for this negative amenity when modeled with pure proximity.

Proximity to a gated railroad crossing at grade was associated with a reduction in sale price of about 5% under some circumstances, but results were not robust over all subcategories of sales.

Results improved substantially when freight train trip counts, separate from simple proximity to a

19. A model with all rail variables with the larger data set of all sizes together was run, and the pure proximity buffers performed the most consistently. However, they also had the highest multicollinearity problems. Therefore, these results are considered not very reliable.

Table 4a Effect of Freight Train Trip Counts on Property Values, 1996

Small units under 1,250 square feet	Within 250 feet		251-500 feet		501-750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	40,806.72	0.00	40,538.76	0.00	40,678.68	0.00
Building sq. ft.	19.45	0.00	19.52	0.00	19.46	0.00
Garage capacity	3,915.99	0.00	3,914.75	0.00	3,918.24	0.00
Bath number	1,948.19	0.19	2,004.96	0.17	2,158.74	0.14
Basement sq. ft.	13.16	0.00	13.15	0.00	12.99	0.00
Lot frontage	0.16	0.00	0.16	0.00	0.16	0.00
Lot sq. ft.	0.41	0.00	0.40	0.00	0.40	0.00
Age of house	-365.87	0.00	-363.15	0.00	-362.40	0.00
Station RTA 1,000 ft.	8,603.06	0.05	8,309.17	0.06	9,472.28	0.03
RTA track 1,000 ft.	-2,356.82	0.32	-1,588.63	0.53	262.67	0.92
Crossing 250 ft.	-2,265.19	0.62				
Freight trips 250 ft.	-116.28	0.19				
Crossing 500 ft.			-6,029.84	0.03		
Freight trips 500 ft.			-39.63	0.20		
Crossing 750 ft.					-4,197.31	0.04
Freight trips 750 ft.					-80.45	0.06
Adjusted R Square	0.68		0.68		0.68	
Durbin-Watson	1.90		1.89		1.90	
Degrees of freedom	5,191.00		5,191.00		5,191.00	
F-statistic	148.96		149.25		149.81	
Medium units 1,251 to 1,700 square feet	Within 250 feet		251-500 feet		501-750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	56,488.09	0.00	56,538.94	0.00	56,397.24	0.00
Building sq. ft.	26.49	0.00	26.43	0.00	26.50	0.00
Garage capacity	4,478.43	0.00	4,478.38	0.00	4,528.09	0.00
Bath number	2,701.08	0.01	2,727.01	0.01	2,697.55	0.01
Basement sq. ft.	9.31	0.00	9.42	0.00	9.37	0.00
Lot frontage	0.10	0.00	0.10	0.00	0.10	0.00
Lot sq. ft.	0.91	0.00	0.91	0.00	0.91	0.00
Age of house	-523.31	0.00	-525.11	0.00	-524.87	0.00
Station RTA 1,000 ft.	10,441.52	0.11	9,276.93	0.16	9,661.90	0.14
RTA track 1,000 ft.	-10,393.28	0.01	-10,930.67	0.01	-10,213.85	0.01
Crossing 250 ft.	2,207.11	0.66				
Freight trips 250 ft.	-164.92	0.24				
Crossing 500 ft.			1,741.49	0.58		
Freight trips 500 ft.			-27.61	0.63		
Crossing 750 ft.					2,814.19	0.24
Freight trips 750 ft.					-35.52	0.61
Adjusted R Square	0.70		0.70		0.70	
Durbin-Watson	1.99		1.99		1.99	
Degrees of freedom	4,775.00		4,775.00		4,775.00	
F-statistic	147.54		147.61		147.52	
Large units over 1,700 square feet	Within 250 feet		251-500 feet		501-750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	42,628.11	0.00	42,833.68	0.00	42,036.57	0.00
Building sq. ft.	39.38	0.00	39.29	0.00	39.40	0.00
Garage capacity	6,301.06	0.00	6,268.31	0.00	6,262.75	0.00
Bath number	12,914.22	0.00	12,928.01	0.00	12,980.06	0.00
Basement sq. ft.	9.63	0.00	9.62	0.00	9.59	0.00
Lot frontage	0.19	0.00	0.19	0.00	0.19	0.00
Lot sq. ft.	1.52	0.00	1.53	0.00	1.52	0.00
Age of house	-744.37	0.00	-744.51	0.00	-740.95	0.00
Station RTA 1,000 ft.	1,722.10	0.79	-2,615.66	0.70	-667.42	0.93
RTA track 1,000 ft.	376.34	0.94	-1,602.79	0.75	-3,951.61	0.45
Crossing 250 ft.	5,360.47	0.56				
Freight trips 250 ft.	-42.74	0.88				
Crossing 500 ft.			1,200.04	0.80		
Freight trips 500 ft.			30.48	0.64		
Crossing 750 ft.					-4,562.12	0.19
Freight trips 750 ft.					227.57	0.01
Adjusted R Square	0.81		0.81		0.81	
Durbin-Watson	1.97		1.97		1.97	
Degrees of freedom	4,927.00		4,927.00		4,927.00	
F-statistic	267.59		267.85		268.16	

Signif. = statistical significance level. For example, .04 = 96% confidence level

Table 4b Effect of Freight Train Trip Counts on Property Values, 1999

Small units under 1,250 square feet	Within 250 feet		251-500 feet		501-750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	46,203.13	0.00	46,277.68	0.00	46,479.72	0.00
Building sq. ft.	20.85	0.00	20.80	0.00	20.88	0.00
Garage capacity	4,623.29	0.00	4,597.04	0.00	4,579.06	0.00
Bath number	3,107.99	0.04	3,034.27	0.04	2,850.52	0.06
Basement sq. ft.	14.64	0.00	14.69	0.00	14.62	0.00
Lot frontage	0.19	0.00	0.19	0.00	0.19	0.00
Lot sq. ft.	0.48	0.00	0.48	0.00	0.48	0.00
Age of house	-369.09	0.00	-369.17	0.00	-365.27	0.00
Station RTA 1,000 ft.	18,183.18	0.00	16,751.99	0.00	17,259.53	0.00
RTA track 1,000 ft.	-8,152.28	0.00	-6,749.18	0.02	-3,946.57	0.18
Crossing 250 ft.	-4,183.39	0.48				
Freight trips 250 ft.	-193.87	0.02				
Crossing 500 ft.			884.50	0.78		
Freight trips 500 ft.			-84.92	0.05		
Crossing 750 ft.					-2,363.30	0.27
Freight trips 750 ft.					-94.17	0.00
Adjusted R Square	0.62		0.62		0.62	
Durbin-Watson	1.75		1.76		1.76	
Degrees of freedom	5,989.00		5,989.00		5,989.00	
F-statistic	128.39		128.23		128.77	
Medium units 1,251 to 1,700 square feet	Within 250 feet		251-500 feet		501-750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	84,403.28	0.00	84,794.33	0.00	85,017.69	0.00
Building sq. ft.	31.10	0.00	30.90	0.00	30.91	0.00
Garage capacity	4,753.83	0.00	4,709.66	0.00	4,734.70	0.00
Bath number	4,575.45	0.00	4,553.61	0.00	4,523.77	0.00
Basement sq. ft.	8.45	0.00	8.34	0.00	8.36	0.00
Lot frontage	0.15	0.00	0.15	0.00	0.15	0.00
Lot sq. ft.	0.69	0.00	0.70	0.00	0.69	0.00
Age of house	-499.04	0.00	-498.42	0.00	-498.39	0.00
Station RTA 1,000 ft.	-5,510.36	0.40	-5,683.83	0.39	-5,162.14	0.44
RTA track 1,000 ft.	843.34	0.81	905.54	0.81	1,726.68	0.65
Crossing 250 ft.	311.96	0.97				
Freight trips 250 ft.	-262.01	0.04				
Crossing 500 ft.			-4,487.92	0.19		
Freight trips 500 ft.			-107.15	0.15		
Crossing 750 ft.					-511.54	0.83
Freight trips 750 ft.					-71.87	0.15
Adjusted R Square	0.64		0.64		0.64	
Durbin-Watson	1.56		1.56		1.56	
Degrees of freedom	5,725.00		5,725.00		5,725.00	
F-statistic	131.09		130.81		130.71	
Large units over 1,700 square feet	Within 250 feet		251-500 feet		501-750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	48,622.51	0.00	48,540.41	0.00	47,957.39	0.00
Building sq. ft.	35.54	0.00	35.55	0.00	35.61	0.00
Garage capacity	4,717.35	0.00	4,748.98	0.00	4,790.22	0.00
Bath number	16,186.00	0.00	16,198.41	0.00	16,227.67	0.00
Basement sq. ft.	10.06	0.00	10.05	0.00	9.99	0.00
Lot frontage	0.28	0.00	0.29	0.00	0.28	0.00
Lot sq. ft.	1.85	0.00	1.85	0.00	1.85	0.00
Age of house	-675.69	0.00	-675.32	0.00	-671.90	0.00
Station RTA 1,000 ft.	9,888.68	0.10	9,783.25	0.11	9,969.80	0.10
RTA track 1,000 ft.	-6,750.15	0.16	-6,768.64	0.17	-7,124.08	0.17
Crossing 250 ft.	-2,950.71	0.73				
Freight trips 250 ft.	-264.38	0.14				
Crossing 500 ft.			-4,837.08	0.30		
Freight trips 500 ft.			4.46	0.96		
Crossing 750 ft.					-9,701.36	0.00
Freight trips 750 ft.					0.82	0.99
Adjusted R Square	0.77		0.77		0.77	
Durbin-Watson	1.51		1.51		1.51	
Degrees of freedom	5,837.00		5,837.00		5,837.00	
F-statistic	255.51		255.31		255.83	

Signif. = statistical significance level. For example, .04 = 96% confidence level

track, were modeled. In 1996, prior to announced track reconfigurations, trip counts had little effect on prices, with only one cell having results indicating market awareness of trip counts. In 1999, after the announced changes, among smaller units each trip count was associated with a reduction in sale price of around \$194 per additional average daily freight train trip within 250 feet. The reduction in sale price decreased to about \$85 and \$94 per trip within 500 feet and 750 feet away, respectively. Medium-sized units exhibited a gradient-type effect ranging from \$262 to \$72, at generally lower significance levels. Larger units also had a drop in sale price of \$264 per trip at the closest distance. Thus, adding trip counts substantially improved pricing effects of train trips. It also represents more of a gradient, rather than zonal, pattern of impact.

To put this into perspective, for example, if a \$100,000 house were located near a freight train track, and the daily train count were to go from 10 trains per day to 30 trains per day, this would imply a reduction in value of \$5,000 (20 trips times \$250/trip), or 5%. This is a new finding and represents a contribution to the literature.

In a recent financial settlement related to the train reorganization in the Cleveland area, the railroads negotiated with communities for mitigation of noise and safety concerns, but no funds were provided specifically to compensate residents for losses in property value. Of course, this research has not calculated the net effect (some lines gained trips, some lost), so there is no statement made here about the fairness of these payments, but loss in property values should be included in future negotiations of this type. The train-trip count impact was insignificant before the merger talks and accompanying newspaper publicity. After the publicity, significant modest price reductions were evident and these were consistent with theory. This is evidence that the markets were able to price the train volume data reasonably well, and that the talk of train line reorganization did have a substantial effect on the parameter estimates after the change in trip volumes.

The models appear to work better for smaller-sized units, regardless of distance from the tracks. One possible explanation could be that a higher percentage of the larger units are located in affluent suburbs outside the central city, where other locational amenities outside the model (e.g., school districts) may be affecting value. Smaller sales tended to be in the central city or in a few, inner-ring working-class suburbs.

The implication of this research for appraisers is that they should include proximity to rail lines, train trip counts, and potentially gated crossings in determining the value of residential property.

Robert A. Simons, PhD, is a professor in the Levin College of Urban Affairs at Cleveland State University, where he teaches courses in real estate development, market analysis and finance, public economics, and environmental finance. He is the faculty advisor for the Certificate Program in Real Estate Development and Finance at Cleveland State University. Simons received his PhD from the University of North Carolina at Chapel Hill in city and regional planning, with an emphasis in real estate. He holds master's degrees in regional planning and in economics, both from the University of North Carolina; his undergraduate degree in anthropology was earned at Colorado State University. Simons has published over 35 articles and book chapters on real estate, urban redevelopment, environmental damages, housing policy, and brownfield redevelopment. He is the author of *Turning Brownfields into Greenbacks*, published by the Urban Land Institute. Simons has an active consulting practice, and has served as an expert witness in matters related to real estate and environmental damages. He has been a member of the American Institute of Certified Planners (AICP) since 1983. **Contact:** Levin College of Urban Affairs, Cleveland State University, 1717 Euclid Avenue, Cleveland, OH 44115; T 216-687-5258; E-mail: robby@urban.csuohio.edu

Abdellaziz El Jaouhari, PhD, earned his PhD in urban studies, with an emphasis in economic development, from Cleveland State University. He holds a master's of science in urban studies, with a concentration in policy analysis. El Jaouhari has taught courses related to urban studies at the Levin College of Urban Affairs and has coauthored a book chapter and an article on brownfields. Beginning in fall 2004, he will be an assistant professor at the United Arab Emirates University in Al Ain. **Contact:** elja11@urban.csuohio.edu

Copyright of Appraisal Journal is the property of Appraisal Institute and its content may not be copied or emailed to multiple sites or posted to a listserv without the copyright holder's express written permission. However, users may print, download, or email articles for individual use.



Notes and comments

The economic valuation of train horn noise: A US case study

William K. Bellinger *

Dickinson College, Department of Economics, P.O. Box 1773, Carlisle, PA 17013-2896, United States

Abstract

This paper provides a property value-based estimate of the dollar cost of train horn noise in a residential neighborhood in a small town, Wormleysburg, Pennsylvania, US. Residential property values are found to decrease by about \$4800, or 4.1%, per 10 db of added noise exposure, for an aggregate total of \$4,088,799 in 2004 dollars. The primary study was supplemented with information from a neighborhood survey. Dollar value estimates of train horn costs could prove useful in facilitating balanced benefit-cost analyses of horn noise abatement policies such as quiet zones, wayside horns, underpasses, or street closures.

© 2006 Elsevier Ltd. All rights reserved.

1. Introduction

The elimination of train horn noise is the primary benefit to be derived from the establishment of quiet zones for railroads. While the long period of experimentation with quiet zones led to a great deal of information about their effects on safety (Federal Railroad Administration, 1995, 2000; Zador, 2003), the benefits of the elimination of train horn noise have received very little attention beyond studies of residents' annoyance levels (Gent et al., 1998). Therefore this paper may begin to fill a need in the analysis of train horn noise and quiet zone policy decisions.

This paper is derived from a more general benefit-cost analysis of a proposed highway-rail underpass in a residential neighborhood in Wormleysburg, Pennsylvania, a small town directly across the Susquehanna River from Harrisburg. Wormleysburg is divided into a narrow 100 year flood plain near the river and a more elevated section to the west, and into northern and southern sections by a local limited access highway. The rail tracks are somewhat elevated relative to the riverfront neighborhood but are well below the crest of the bluff that leads to the western side of the town. Based on a survey of Wormleysburg residents, the riverfront area is highly impacted by train horn and other noise, while most of the higher elevation area is not.

* Tel.: +1 717 245 1358; fax: +1 717 245 1854.

E-mail address: bellinge@dickinson.edu

2. Resident survey

While the primary estimate of the dollar cost of train horns is based on an analysis of property values presented later, the study also benefits from the findings of a survey distributed to Wormleysburg residents in the summer of 2005. This survey asked about perceived loudness and annoyance levels from train horns and train movement, the impact of horn noise on daily activities such as sleep and outdoor activity, and a hypothetical question regarding residents' willingness to pay to eliminate train horn noise. Identifying variables included location, household size, and tenure. Just over 100 questionnaires were returned, the majority of which were from the northern riverfront and uphill neighborhoods in Wormleysburg closest to the rail crossing. The results are consistent with expectations. Annoyance is closely related to perceived train horn volume. Annoyance levels are far higher in the riverfront north area nearest to the rail crossing, higher for train horns than for train movement, higher for those with fewer years of residence, and higher at night than during the day.

The Wormleysburg resident survey also included the following:

“This question is not about a real person or a real situation and does not mean you will actually have to pay to stop horn noise. Your best guess will be perfectly acceptable. If you could pay some person or group to stop all train horns, what is the most you would be willing to pay per month?”

While the question seems to invite high responses, response biases existed in both directions. At least half a dozen respondents with high or extremely high levels of annoyance offered a zero payment response. The majority of these few respondents added notes saying that while they were annoyed by horns, someone else should pay for their elimination. On the other hand, two respondents offered dubiously high valuations of \$500 and \$1000 per month, possibly in an attempt to influence the results. Eliminating both groups reduced the average monthly willingness to pay from \$30.18 to \$13.06 per household, a more reliable figure. Because statistical tests found no correlation between family size and respondents' willingness to pay, these responses were interpreted as individual valuations. Therefore, household values were calculated by multiplying the willingness to pay by the number of adults in the household.

Selected annoyance values and monthly willingness to pay by location are presented in Table 1. The positive relationship between respondents' willingness to pay and train horn annoyance levels, measured on a 5 point scale, is clear. The correlations between willingness to pay and annoyance were 0.612 for daytime annoyance levels, 0.637 for evening and nighttime annoyance levels, and 0.671 for frequency of sleep loss. Correlations between willingness to pay and loudness were 0.590 for daytime and 0.600 for night time. All were highly significant. Average monthly household willingness to pay varied from \$66.75 for those with at least one annoyance level of 5 (extremely annoying) to \$0 for those households with a highest annoyance level of 1 (not annoying).

Because of the possible upward bias in the survey results, no aggregate dollar value is reported here. The important finding from the survey is the strong correlation between perceived noise volume, annoyance, willingness to pay, and proximity to the Wormleysburg railroad crossing. This information helps to support the indirect sound figures used in the following property value estimate of horn noise costs.

Table 1
Monthly willingness to pay to eliminate train horns

Area	Number of responses	Average night noise rating (5 point scale)	Average night time annoyance rating (5 point scale)	Household willingness to pay
Riverfront north	17	4.00	4.06	\$55.29
Riverfront south	8	2.94	3.00	21.25
Uphill north	29	2.56	2.23	5.21
Uphill south	9	3.50	3.58	30.00
Total	63	3.21	3.12	\$24.30

3. Train horn noise and property values

One approach to providing a dollar estimate for the cost of noise uses regression analysis to estimate the one time increase in property value due to the elimination of a noise source. This study utilizes a set of 192 residential properties in Wormleysburg sold between 1980 and 2004. Sales prices were adjusted for housing price inflation using the housing price index for the Harrisburg metropolitan area. In addition to the property's estimated exposure to horn noise, other variables such as lot size, living space, the age of the dwelling, and access to a river view were included as control variables.

Because no sound equipment was available to test train noise directly, a noise distribution map from an Iowa study (Gent et al., 1998) was adjusted to scale and overlaid onto a map of Wormleysburg for northbound and southbound trains. These overlays are shown in Figs. 1 and 2. Gent et al's maps give a visual representation of the resulting sound pattern, and may not be entirely accurate.

Because the Norfolk Southern tracks in Wormleysburg lie partway up a relatively steep hill, sound exposure seems to be pervasive across the riverfront section but relatively negligible for the uphill neighborhood to the west. To test the significance of this topographical issue, the sound distribution overlays from the Gent study were interpreted in three ways. The first interpretation was to make no topographical adjustment in the estimated noise exposure. The second interpretation limits assumed noise exposure to those streets at the river level or above but directly contiguous to the Norfolk Southern tracks. This exposure area is referred to as riverfront plus. The third interpretation limits assumed noise exposure to riverfront blocks only. The (literally) narrower interpretations of sound exposure provide far more significant results than the unadjusted data.

3.1. Property value results

The effect of horn noise on property values was analyzed through multiple regression analysis. Results are shown in Table 2. Results in the uppermost rows indicate that the riverfront and riverfront plus contiguous

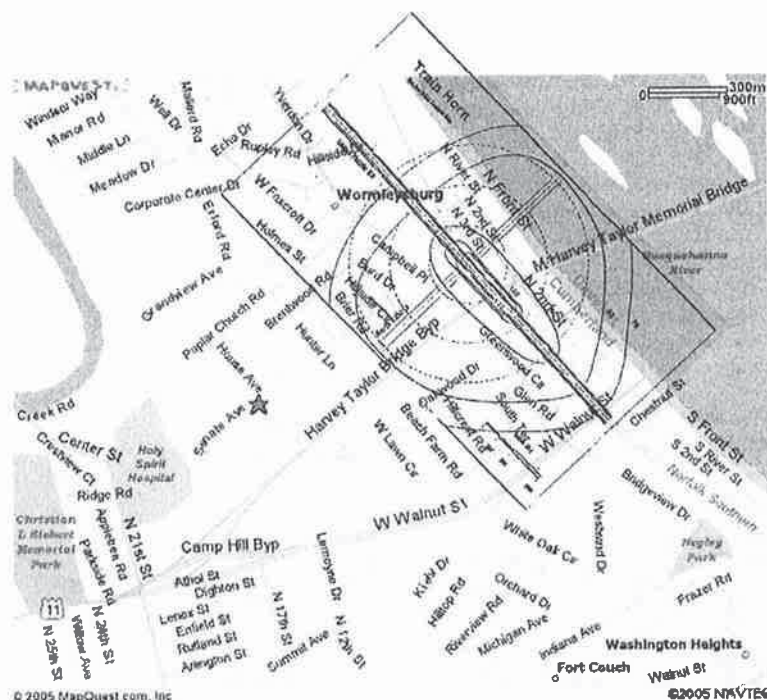


Fig. 1. Northbound Trains.



Equation	River level	River level	River plus	River plus	Unadjusted
Constant	146,750 (8.56)	162,036 (11.368)	156,030 (8.12)	172,434 (10.29)	141,102 (6.22)
Max. horn noise (River level only)	-4831 (-2.213)	-5103 (-2.34)			
Max. horn noise (River level plus)			-4,741 (-1.96)	-4,837 (-1.99)	
Max. horn noise (unadjusted area)					-797 (-.257)
Living area	12.085 (1.59)		13.06 (1.72)		13.206 (1.71)
Acreage	93,814 (3.62)	117,714 (5.55)	86,867 (3.25)	112,956 (5.12)	100,242 (3.84)
Age of house	-847 (-5.18)	-859 (-5.23)	-951 (-5.66)	-967 (5.74)	-898 (-4.83)
River view	55,411 (5.29)	61,786 (6.36)	53,802 (5.09)	60,714 (6.183)	55,808 (5.25)
R^2	0.558	0.52	0.555	0.548	0.546
Adjusted R^2	0.546	0.42	0.543	0.538	0.534

hillside properties experience significant losses in property values. The average residential property in the riverfront or riverfront plus zones lose between \$4700 and \$4800 dollars of sales value for each 10 db of horn noise exposure above an assumed background level of 50. In the noise exposure zone, properties have an average sales price in 2004 dollars of \$115,953. All else equal, the estimated decrease in property value for exposure to each 10 db above background level is 4.1%. Therefore the residents of the 90+ db area will gain an average

16.6% from the elimination of horn noise, with lesser exposure producing correspondingly lower effects. For all 256 riverfront plus residential properties in the affected zones, the aggregate loss of property value from train horns is estimated to be \$4,088,799 in 2004 prices.

Tests of non-linear relationships, including a double log specification and squared noise values, produced less significant results, indicating a linear relationship between added noise exposure and property value. The results for other variables are significant and consistent with expectations in size and sign. A high correlation between living area and acreage did not significantly affect the results, as columns 3 and 5 in Table 2 demonstrate.

There are three possible biases in these estimates. On one hand, horn noise may be more widely dispersed than is indicated by our noise maps. Evidence from the Wormleysburg resident survey indicates that residents to the south of the estimated noise zones also may be annoyed by train horns, although the noise zones do extend somewhat into the southern neighborhoods. Secondly, limited data on factors affecting housing value might mask the possible effect of train horns on property value in the newer and more affluent uphill neighborhoods. However, the resident survey indicated low annoyance levels and low willingness to pay for silencing train horns in this uphill area. The final bias is the lack of any separate measurement for other negative effects of trains, such as movement noise. Efforts to test variables indicating proximity to the tracks well south of the highway intersection produced inconsistent results. If part of the estimated effect of train horns is caused by other rail-related factors, then the estimate is biased upward, all else equal. Given these offsetting biases, the estimated aggregate lost property values seems reasonable.

4. Conclusions

Access to a dollar valuation of the cost of train horn noise will allow a more balanced analysis of the net benefits of quiet zones, stationary horns, underpasses, or other horn noise reduction methods. This paper attempts to provide such an estimate using a property value or revealed preference method, supplemented by a resident survey. According to these estimates, the property value effect of train horns averaged approximately \$4800 per 10 db of added noise exposure, or 4.1% of the sales value. For all of the 256 affected residential properties, this totaled just over \$4 million in 2004 prices. The Wormleysburg resident survey verified a strong connection between horn noise volume, annoyance, willingness to pay, and location, providing support for the indirect sound estimates use in the property value study.

Acknowledgements

This paper is based on one part of a study funded by the Borough of Wormleysburg, Pennsylvania and Benatec Associates. I wish to thank Tom Kanganis, President of the Wormleysburg Borough Council, for permitting the distribution of the resident survey. Thanks also go to Scott Dennis of the US Department of Transportation for comments on the manuscript. All errors are mine alone.

References

- Federal Railroad Administration, 1995. Nationwide Study of Train Whistle Bans, Federal Railroad Administration, Washington DC. Available from: <<http://www.fra.dot.gov/downloads/FromOldSite/pdforphan/nationwidestudy.pdf>>.
- Federal Railroad Administration, 2000. Updated Analysis of Train Whistle Bans, Federal Railroad Administration, Washington DC. Available from: <http://www.fra.dot.gov/downloads/FromOldSite/pdforphan/nw_update.pdf>.
- Gent, S.J., Logan, S., Evans, D., 1998. Evaluation of an Automated Horn Warning System at Three Highway-Railroad Grade Crossings in Ames, Iowa. Available from: <<http://www.benefitcost.its.dot.gov/its/benecost.nsf/ID/FB0F53D3AD4FAEB68525697B006A0ADA>>.
- Zador, P.L., 2003. Analysis of the Safety Impact of Train Horn Bans at Highway-Rail Grade Crossings: Final Report, Federal Railroad Administration, Washington DC.

Safety in the Park - Chapter 5 Appendix – Document 8

NEGATIVE IMPACTS OF FREIGHT RAIL RE-ROUTE ON PROPERTY VALUE

St. Louis Park is not the first community to have freight rail issues. There are many communities that have re-routes, mergers and in one case new infrastructure that caused existing communities to encounter new or additional freight traffic.

For the last several months I have been reading articles from business and appraisal journals to learn the effect the re-route may have on our property values. Below is a list of the most pertinent facts:

Negative impacts studied:

- Air pollution
- Noise
- Vibration
- Visual pollution

Factors that diminish the negative impacts:

- Tracks lower than grade level
- Barriers or landscape barriers like bushes
- Homes larger than 1700square feet
- The perception that a neighborhood is affluent
- Negative impact appears to end at approximately 850-900 feet from the tracks

Factors that increase the negative impacts:

- Tracks at grade level or above grade of structure
- Tracks visible from the structure
- The perception that the neighborhood is working or lower class
- Homes near crossings

Estimates of value lost for homes of 1250 sq feet and 250 feet from the tracks:

- Property values begin to decline with the announcement of additional freight traffic
- Loss in value is based on the average number of daily freight trips. (MN&S currently averages two trips a day)
- Loss in value usually ranges from 5-7%
- Structure near a crossing can lose 5-7%
 - It is unclear if this is in addition to loss of value due to proximity or besides
 - Homes away from tracks, but with crossing on access routes are affected. (Dakota Ave. for example)

Some interesting findings about noise:

- Peak noise not average noise is biggest nuisance
 - The hum of a highway is less of a nuisance than a jet overhead
 - A locomotive (engine) passing is more bothersome than the rest of the train
- Trains going less than 35mph the locomotives are the biggest noise issue
- Trains going 35-95mph the wheel noise (clickety clack) is biggest noise issue
- Trains going more than 95mph it is the wind noise that is biggest problem
- The squeal of trains on a curve and the sound of breaks is a problem at all speeds.
- Indirect costs of noise include hearing loss and reduction of well being which can affect a persons productivity
- The Netherlands have strict limits on acceptable noise and the limits for areas near schools, hospitals and residences are more strict than for other areas

Links to articles:

"The effect of freight railroad tracks and train activity on residential property values", by Robert A. Simons and Adellaziz El Joauhari – The Entrepreneur, summer 2004.
<http://www.entrepreneur.com/tradejournals/article/120353037.html>

"The relationship between property values and railroad proximity: a study based on hedonic prices and real estate brokers' appraisals," by Jon Strand and Mette Vagnes, Transportation, 2001

"Effect of increased Freight Trains on Property Values Along Springfield's 3rd Street Rail Corridor," Springfield-Sagamon County Regional Planning Commission, August 20, 2009.
http://www.co.sangamon.il.us/departments/regionalplanning/PDFs/Brochures_Docs/Effect%20of%20Additional%20Freight%20Trains%20on%20Property%20Values%20-%20UPDATE.pdf

"Railway Externalities and Residential Property Prices," By Barry C.L. Poon, University of Wisconsin Press, May 1978.

A copy write disclaimer does not allow me to share the link.

"Railroad noise: economic valuation and policy" by Martijn Brons, Peter Nijkamp, Eric Pels, Piet Rietveld, Department of Regional Economics, Free University, Amsterdam, Netherlands, Elsevier Science Ltd., 2003

SAFETY IN THE PARK!

APPENDIX

CHAPTER 7 DOCUMENTS


Appendix 7 A

Railroad currently situated on Section 4(f) Property, not mentioned in DEIS



<http://gis.co.hennepin.mn.us/property/map/default.aspx?pid=2902924430005>

Junction of Cedar Lake Trail and Kenilworth Trail near Penn Ave



Interactive
Maps

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 2902924430005

1800 Upton Ave S
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411
Tax District	
School Dist:	001
Sewer Dist:	
Watershed Dist:	7
Parcel	

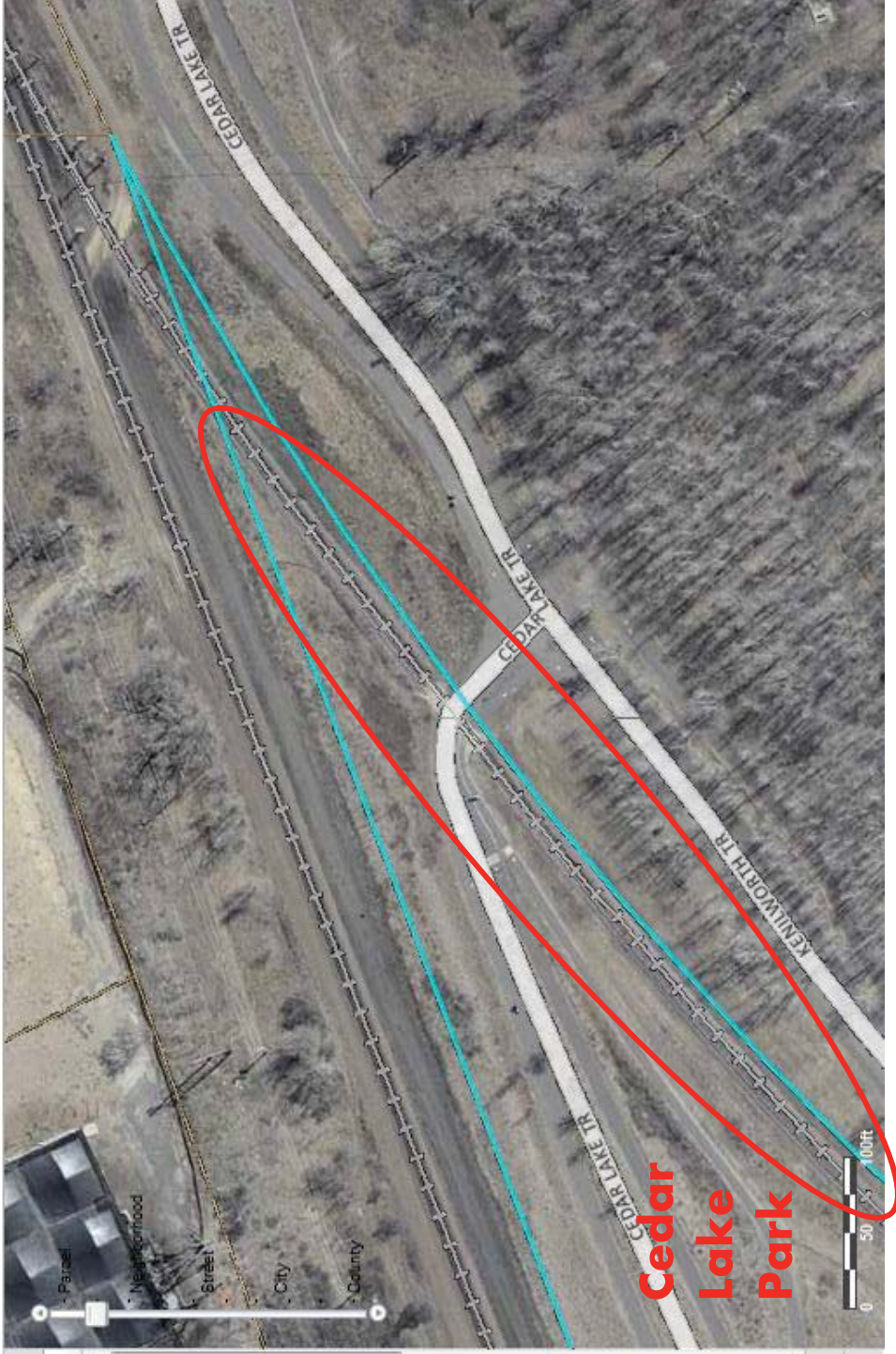
Legend

Measure

Find a PID or an address on the map

[Search Map](#)

[Advanced Search](#)



Cedar Lake Park

[Advanced Search](#)
[Search Map](#)

Find a PID or an address on the map

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 2902924430005

1800 Upton Ave S
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD
	2117 WEST RIVER RD
	MINNEAPOLIS MN 55411

Tax District	
School Dist:	001
Sewer Dist:	
Watershed Dist:	7
Parcel	

Legend

Measure





Interactive Maps

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 2902924430005

1800 Upton Ave S
Minneapolis, MN 55405

Owner/Taxpayer

Owner: Mpls Park & Rec Board

Taxpayer: CITY OF MPLS PARK BOARD

2117 WEST RIVER RD
MINNEAPOLIS MN 55411

Tax District

School Dist: 001

Sewer Dist:

Watershed Dist: 7

Parcel

Legend

Measure

[Advanced Search](#)

Search Map

Find a PID or an address on the map





Interactive Maps

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 2902924430005

1800 Upton Ave S

Minneapolis, MN 55405

Owner/Taxpayer

Owner: Mpls Park & Rec Board

Taxpayer: CITY OF MPLS PARK
BOARD
2117 WEST RIVER RD
MINNEAPOLIS MN
55411

Tax District

School
Dist: 001

Sewer Dist:

Watershed
Dist: 7

Parcel

Legend

Measure

Search Map

[Advanced Search](#)

Find a PID or an address on the map





Interactive Maps

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 2902924430005

1800 Upton Ave S
Minneapolis, MN 55405

Owner/Taxpayer

Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411

Tax District

School Dist:	001
Sewer Dist:	7
Watershed Dist:	

Parcel

Legend

Measure

Search Map

[Advanced Search](#)

Find a PID or an address on the map





Interactive Maps

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 2902924430005

1800 Upton Ave S
Minneapolis, MN 55405

Owner/Taxpayer

Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411

Tax District

School Dist:	001
Sewer Dist:	
Watershed Dist:	7

Parcel

Legend

Measure

Search Map [Advanced](#)

Find a PID or an address on the map



Appendix 7 B

HCRAA Available property for co-location



Enough ROW width for Co-location

- Existing trail corridor is approximately 50'
- Additional width of HCRRA property is 100' along Cedar Lake Park
- Typical LRT cross section requires 38' width for LRT. With available ROW width approaching 150' or more along Cedar Lake Park, there is sufficient width for LRT, freight rail and trails without using Section 4(f) property.



Interactive Maps

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 2902924410044

1800 Kenwood Pkwy
Minneapolis, MN 55405

Owner/Taxpayer

Owner: Henn City Regional Rr
Auth

Taxpayer: HENNEPIN COUNTY
REGIONAL RAILROAD
AUTHORITY
701 4TH AVE S SUITE
400
MINNEAPOLIS MN
55415

Tax District

School
Dist: 001

Sewer Dist:

Watershed

Legend

Measure

Search Map

[Advanced Search](#)

Find a PID or an address on the map.





Interactive Maps

Welcome

Results

Links

Tax Information

[View oblique imagery \(Bing maps\)](#)

Survey Documents

PID: 3202924120046

2012 Thomas Ave S

Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Henn Co Reg Rr Authority
Taxpayer:	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Tax District	
School Dist:	001
Sewer Dist:	
Waterford Legend	
Measure	



Interactive Maps

Find a PID or an address on the map.

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 3202924120045

2800 21st St W

Minneapolis, MN 55405

Owner/Taxpayer

Owner:

Henn Co Reg Rr
Authority

HENNEPIN COUNTY
REGIONAL RAILROAD
AUTHORITY

Taxpayer:

701 4TH AVE S SUITE
400
MINNEAPOLIS MN
55415

Tax District

School
Dist:

001

Sewer Dist:

10/Starched

Legend

Measure





Interactive Maps

Search Map

Ad

Find a PID or an address on the map

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 3202924120005

2603 21st St W
Minneapolis, MN 55405

Owner/Taxpayer

Owner:	Henn Cty Regional Rr Auth
	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Taxpayer:	

Tax District

School Dist:	001
Sewer Dist:	
Watercharged	

Legend

Measure

Done





Interactive Maps

Search Map

Advar

Find a PID or an address on the map

Welcome

Results

Links

[Tax Information](#)

[View oblique imagery \(Bing maps\)](#)

[Survey Documents](#)

PID: 3202924130001

2820 26th St W
Minneapolis, MN 55405

Owner/Taxpayer

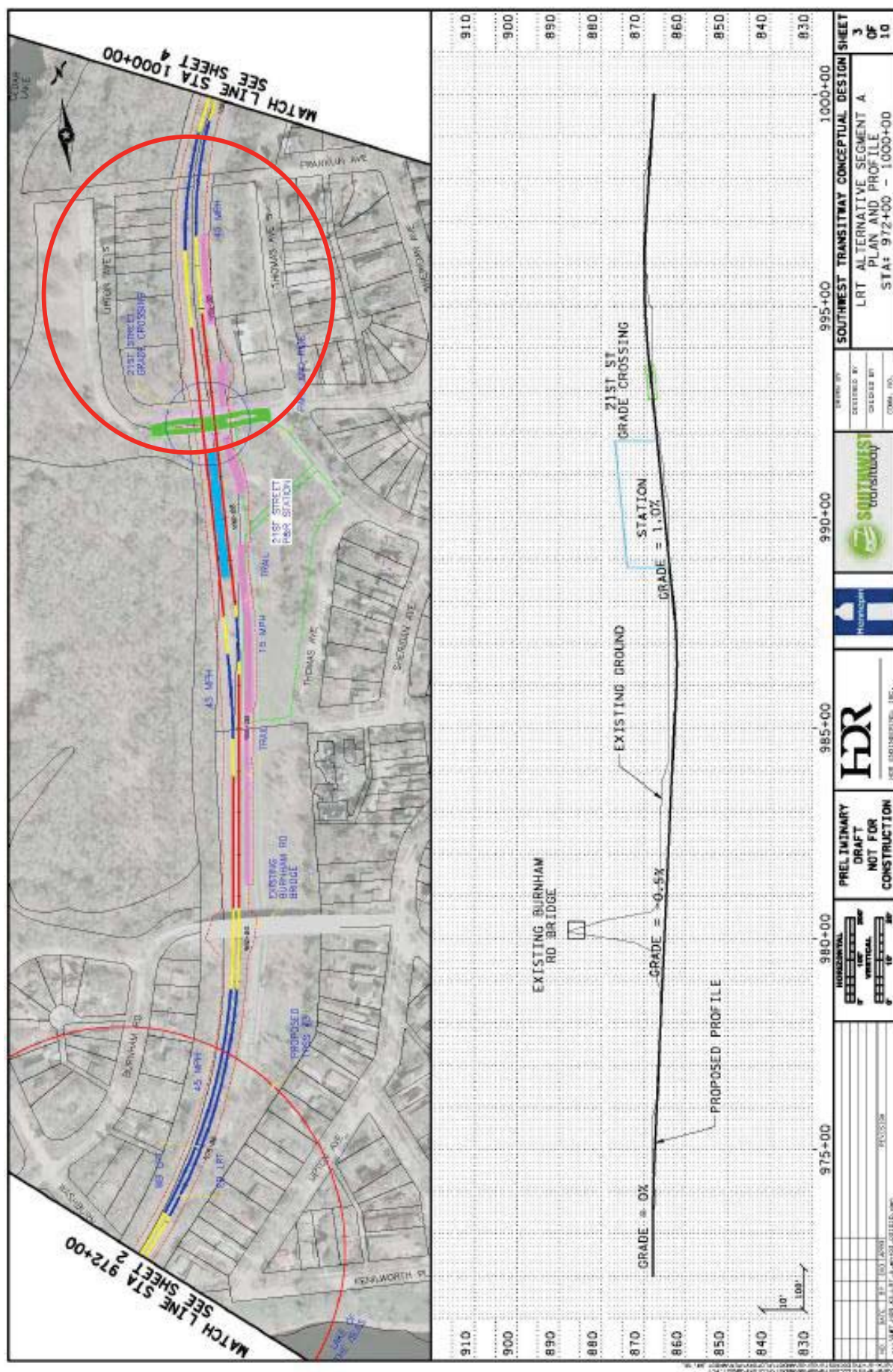
Owner:	Henn Cty Regional Rr Auth
	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Taxpayer:	

Tax District

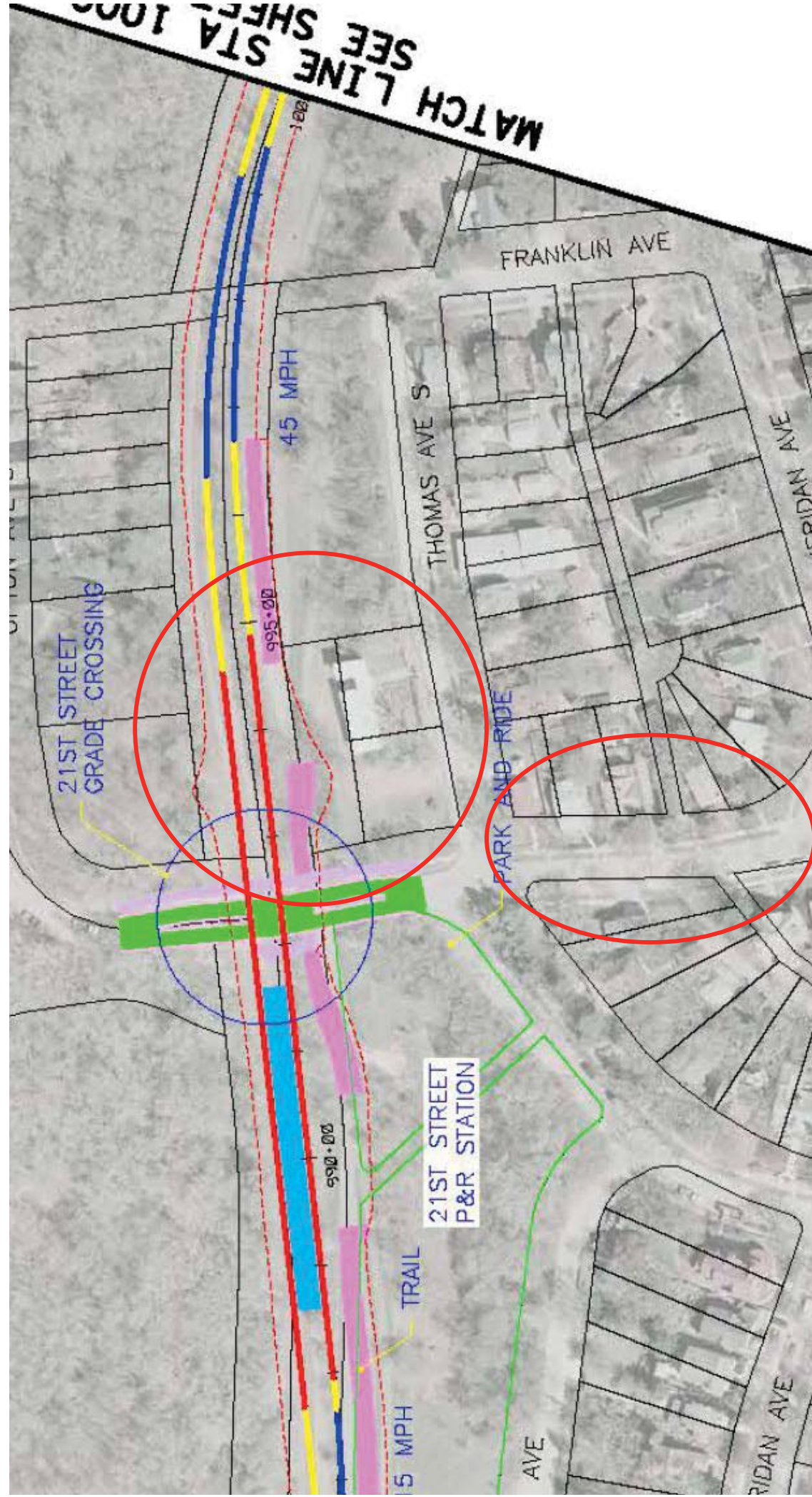
School Dist:	001
Sewer Dist:	
Watershed Legend	
Measure	



Improperly overlaid base maps in concept engineering drawings provided in Appendix F of DEIS



Street ROW and residential lot lines do not match up



Marc M. Berg
2913 Webster Avenue South
St. Louis Park, MN 55416

December 21, 2012

VIA EMAIL ONLY (swcorridor@co.hennepin.mn.us)

Hennepin County
Housing, Community Works & Transit
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

Re: Southwest Light Rail Transit Draft Environmental Impact Statement (“SWLRT-DEIS”)

Dear Sir or Madam:

I have lived in St. Louis Park for 19 years, and in the Birchwood neighborhood for almost 17 years. I served at the Birchwood neighborhood alternate to the Project Management Team (the “PMT”) that studied and discussed the impact of the proposed freight rail re-route under consideration as part of the Southwest Light Rail Transit (“SWLRT”) project. I am submitting this comment to the Draft Environmental Impact Statement (the “DEIS”) for the SWLRT, which I understand to be open for public comment through December 31, 2012.

Like other residents of St. Louis Park, I have serious concerns about the negative impact that the proposed re-route of freight rail traffic along the MN&S line will have on the city. Over the past few years that I have followed this issue, I have been unable to understand why the government officials planning the SWLRT have apparently pre-judged the re-route as a preferred alternative to co-locating the new SWLRT with the existing freight rail in the Kenilworth corridor (the “co-location” alternative), or why they have concluded that co-location is either impossible, or so undesirable that opting for co-location would kill the SWLRT project itself. I have always seen the re-route as ***a horrendously bad idea, on many levels***, and I have struggled to understand why the re-route is treated as a precondition to moving forward with SWLRT. The DEIS, unfortunately, fails to provide any satisfactory reasons as to why the SWLRT cannot be built without the re-route.

I have reviewed the DEIS and I believe that the authors have incorrectly concluded that federal law would ***prohibit*** co-location as a viable alternative. Chapter 11, page 12 (“Page 11-12”) of the DEIS states that because co-location would require the acquisition of .81 acre of Cedar Laker Park, and because other alternatives (i.e., the LPA/re-route alternative) would not, the U.S. Secretary of Transportation would be legally prohibited from approving co-location under Section 4(f) of the U.S. Department of Transportation Act of 1966, 49 U.S.C. § 303 and 23 U.S.C. § 138 (hereinafter “Section 4(f)” or “the statute”). The DEIS’s discussion the facts relating to a Section 4(f) analysis,

and the rationale as to why Section 4(f) is implicated, is set forth in Chapter 7 of the DEIS (“Section 4(f) Evaluation”).¹

I believe that the DEIS concludes that co-location would be “prohibited” because the authors of the DEIS have deliberately misconstrued the statute. Page 11-12 of the DEIS states that “[t]he use of park property is significant,” because Section 4(f) “prohibits the Secretary of Transportation from approving a project that requires the use of publicly owned land of a public park . . . of . . . local significance (as determined by the federal, state, or local officials having jurisdiction over the resource), unless the agency can demonstrate that: [t]here is no feasible and prudent alternative to the use of the land; and [t]he action includes all possible planning to minimize harm to the property resulting from such use.” The DEIS continues to state that the acquisition of less than an acre of Cedar Lake Park is a Section 4(f) use – presumably, because Cedar Lake Park has been designated as “of local significance” by officials having jurisdiction – and that “[b]ecause this Draft EIS has presented other feasible and prudent alternatives to LRT 3A-1 (co-location alternative), this alternative cannot be recommended as the environmentally preferred alternative.” This passage at page 11-12 appears to be the legal “linchpin” of the DEIS’s rationale for rejecting co-location as a viable option.

The language of Section 4(f) itself, however, appears to give the U.S. Department of Transportation far greater flexibility in approving projects involving the use of public parks, recreation areas, etc. than what the authors of the DEIS would have us believe. The pertinent language of Section 4(f) is as follows:

Approval of Programs and Projects. Subject to subsection (d), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section [204](#) of title [23](#)) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—

- (1) there is no prudent and feasible alternative to using that land; and
- (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

See 49 U.S.C. § 303(c).

¹ My comments below assume, for the sake of discussion, that the acquisition of .81 acres of park land is a Section 4(f) use. See, for example, DEIS, at Page 7-5 (“At this time, these publicly owned properties are assumed to qualify for Section 4(f) protection based on the criteria set forth in 23 C.F.R. § 774”). Recently, another St. Louis Park resident, Mr. Ryan Edstrom, made a presentation to the St. Louis Park City Council in which he argued that the DEIS is incorrect when it states that co-location would impact .81 acres of park land – and, therefore, Section 4(f) is not implicated. I understand that Mr. Edstrom is an engineer by training, and I would encourage you to review his written comments on the DEIS as well. Obviously, if Mr. Edstrom is correct, there is no need for any analysis under Section 4(f), and the co-location alternative cannot be rejected for the reasons argued at Page 11-12 of the DEIS.

Thus, Section 4(f) does not – as the DEIS suggests – state that the Secretary is “prohibited” from approving a project that would involve the acquisition of locally-significant park property “unless” there is no feasible and prudent alternative to using the land. Instead, Section 4(f) states that the Secretary “may” approve the project “only if” there is no prudent and feasible alternative to using the land. The DEIS has attempted to characterize Section 4(f) as being far more restrictive than it actually is.

More importantly, however, the DEIS contains no explanation whatsoever as to how its authors concluded that re-route was a “prudent” alternative. As outlined in Section 4(f), a rejection of co-location in favor of re-route would necessarily require a finding that re-route is both “feasible” and “prudent.” The terms “feasible” and “prudent” as used in Section 4(f) are defined in the Code of Federal Regulations, at 23 CFR § 774.17 (“*Feasible and prudent avoidance alternative*”). Under Section 774.17, an alternative is “not feasible if it cannot be built as a matter of sound engineering judgment.” Whether an alternative is prudent, however, requires a more thorough and careful evaluation of a number of factors listed under subpart 3 of the definition of “feasible and prudent avoidance alternative” in Section 774.17. Under 23 C.F.R. § 774.17, an alternative is not prudent if:

- (i) It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
- (ii) It results in unacceptable safety or operational problems;
- (iii) After reasonable mitigation, it still causes:
 - (A) Severe social, economic, or environmental impacts;
 - (B) Severe disruption to established communities;
 - (C) Severe disproportionate impacts to minority or low income populations; or
 - (D) Severe impacts to environmental resources protected under other Federal statutes;
- (iv) It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
- (v) It causes other unique problems or unusual factors; or
- (vi) It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

No where does the DEIS contain any explanation or analysis as to how or why it concluded, based upon the factors listed above, that the re-route fits the definition of a “prudent” alternative within the meaning of Sections 4(f) and 27 C.F.R. § 774.17. Furthermore, I believe that if the DEIS took an honest look at the detrimental impact that the re-route will have on St. Louis Park, it would conclude that re-route is not a “prudent” alternative – and, thus, co-location is not barred by Section 4(f).

You are likely to receive numerous written comments regarding the negative impact that the re-route will have on St. Louis Park. These impacts include safety concerns, hazardous materials concerns, traffic congestion concerns, emergency vehicle access concerns, as well as increased noise, increased vibrations, interruptions to school operations, increase in the overall project cost, and decrease in homeowner values. Many of these concerns were explained in the PMT process, and at the public hearing on November 14, 2012. Curiously, the DEIS dismisses the expected **800 percent increase in rail traffic** on the MN&S line, and the accompanying noise, to be “slight” impacts (see DEIS, at Page 11-10), there should be no question that the re-route will have a negative impact on St. Louis

Park. If the data is evaluated honestly, the DEIS *should* conclude that the re-route will result in unacceptable safety problems for people who live, work, or attend school near the MN&S. The DEIS *should* conclude that the re-route will result in unacceptable operational problems to both the railroad and the city. The social, economic, and environmental impacts *should* be viewed as severe. The disruption to the established community that lives along the planned re-route *should* be seen as severe. In short, the DEIS should view these concerns in a serious, non-dismissive fashion, and conclude – based upon the factors listed above – that re-route is not a “prudent” alternative.

The required analysis under 23 C.F.R. § 774.17 is missing from the DEIS, which is a critical flaw in this process. The impact on the .81 acre of Cedar Lake Park property is not the “deal-breaker” for co-location that the DEIS makes it out to be. There is no reason that DEIS should not conclude that co-location is the preferred alternative. First, a serious analysis needs to be undertaken as to whether the re-route is “prudent;” and, second, that analysis needs to be clearly explained in the final EIS.

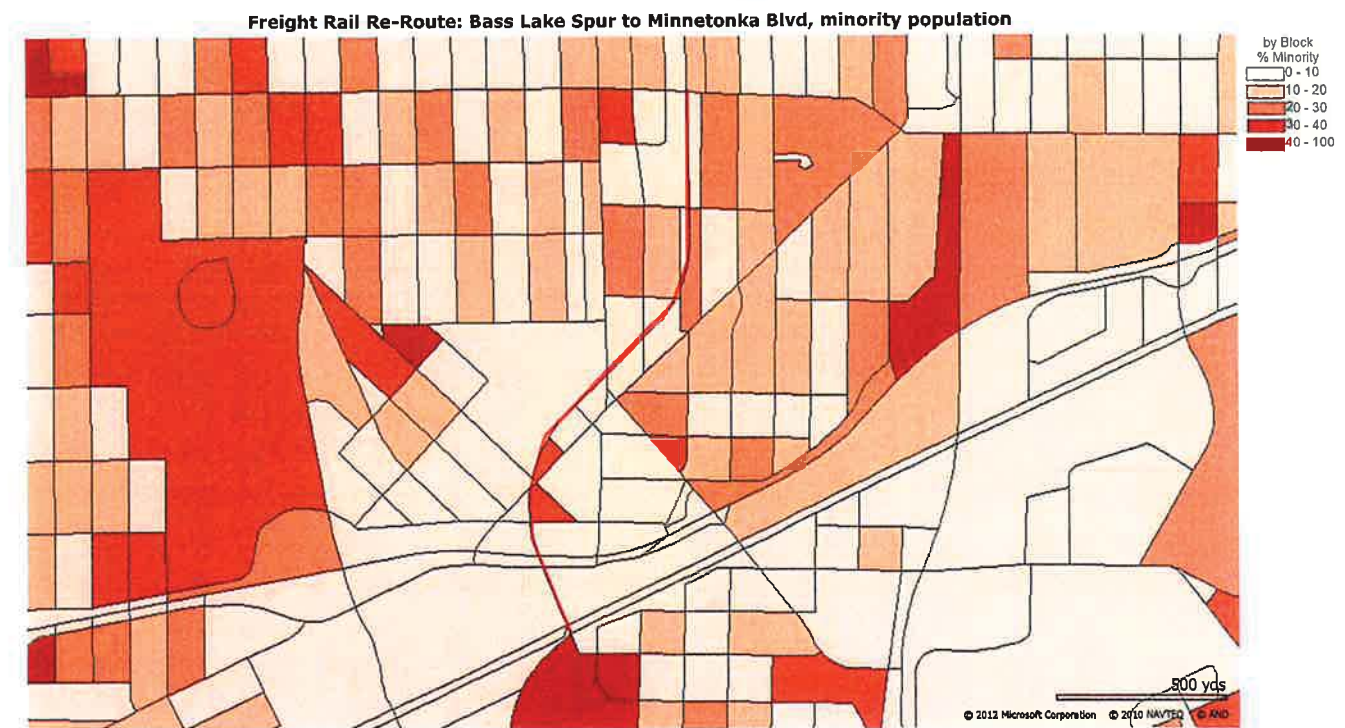
Thank you in advance for your consideration of these public comments.

Marc M. Berg

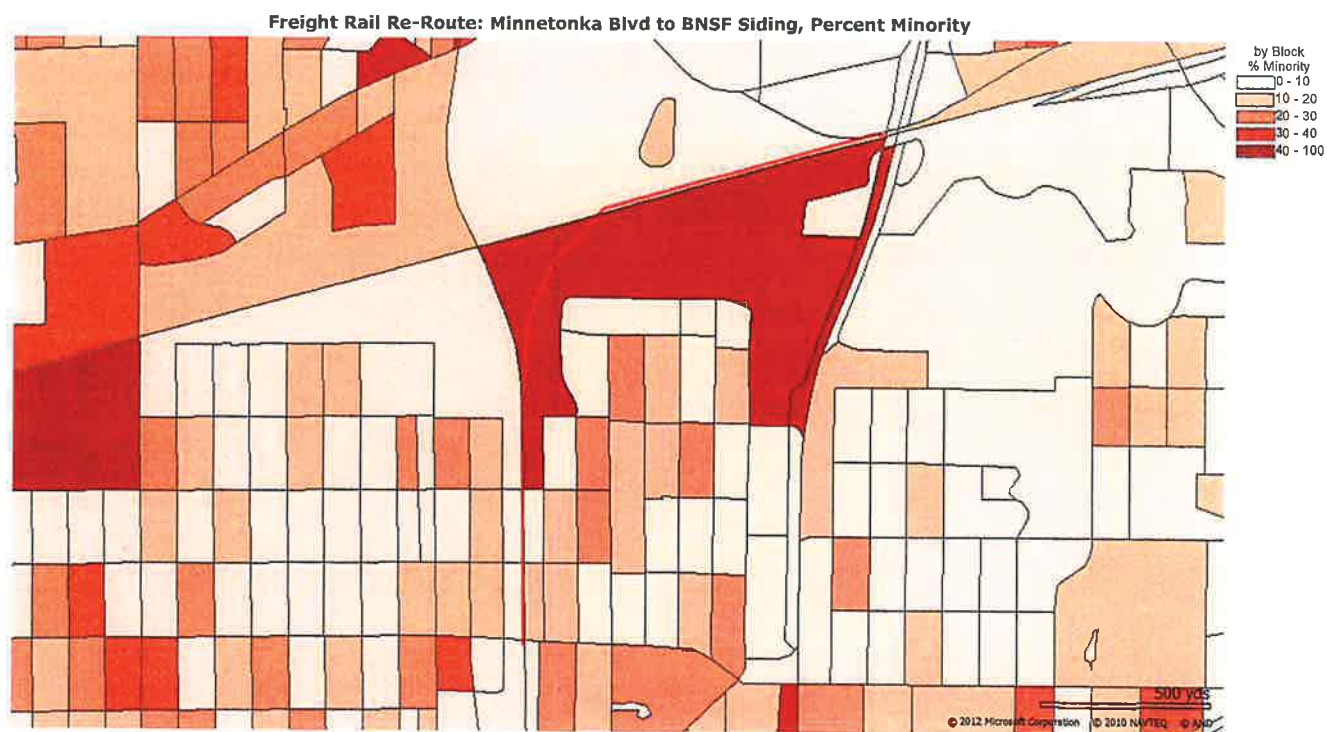
SAFETY IN THE PARK!

APPENDIX

CHAPTER 10 DOCUMENTS

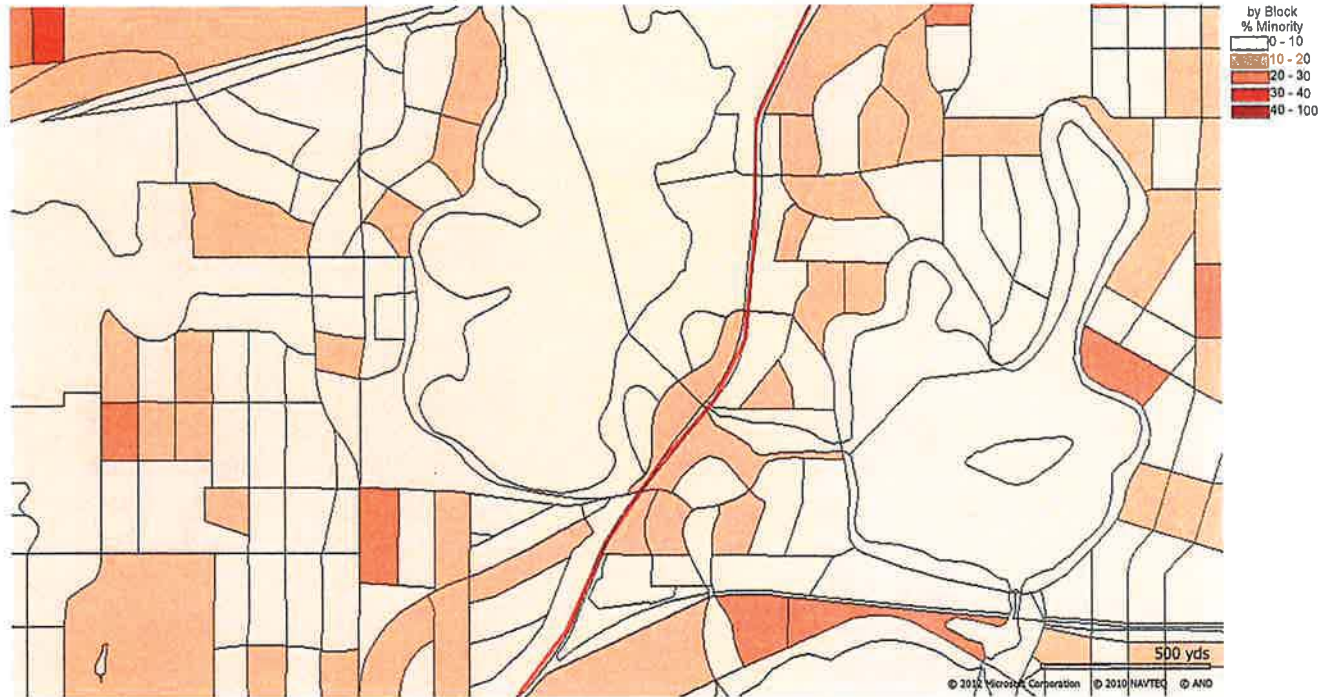
Environmental Justice, Attachment A pg 1 of 3

pg 2 of 3



pg 3 of 3

Colocation in Mpls: Lake Stree to Penn Station, percent minority



SAFETY IN THE PARK!

APPENDIX

CHAPTER 12 DOCUMENTS



Charter of the Southwest LRT Community Advisory Committee (CAC)

SCOPE

The Southwest LRT Community Advisory Committee (CAC) was established in 2007 to provide guidance on community issues during the Alternatives Analysis (AA) and Draft Environmental Impact Statement (DEIS) phases of Southwest LRT project development. Members were appointed by the partner cities and neighborhood organizations to provide representation for the station areas. In 2012, the purpose, role and composition of the CAC is being expanded to provide for broader community involvement on the Southwest LRT project as it progresses through the Preliminary Engineering (PE)/Final EIS phases and Hennepin County's Community Works planning efforts to maximize and integrate economic development along the Southwest LRT line.

PURPOSE

The purpose of the CAC is to serve as a voice for the community and advise the Southwest LRT Corridor Management Committee and the Southwest LRT Community Works Steering Committee during the planning and implementation phases of the light rail line and beyond:

1. Advise on communications and outreach strategies for the Southwest LRT project's Draft Environmental Impact Statement, Preliminary Engineering, and the Final Environmental Impact Statement as well as the Southwest LRT Community Works' land use/economic development and Transitional Station Area Action Plans initiatives.
2. Provide input on station location, design, and construction to reflect the needs of the community, including residents, visitors, businesses, transit riders, pedestrians, and bicyclists.
3. Provide input on station area (1/2 mile radius of station location) vision and character for development from a community perspective.
4. Identify environmental concerns and impacts related to construction and operation of the light rail line.
5. Identify potential issues and review strategies to mitigate the impacts of construction on residences and businesses.
6. Review and comment on major initiatives and actions of the Southwest LRT Community Works program.
7. Serve as an information resource and liaison to the greater corridor community.

REPORTING REQUIREMENTS

The Southwest CAC has reporting responsibilities to both the Southwest LRT Management Committee and the Southwest LRT Community Works Steering Committee.

In addition, the CAC will have a representative from their membership serving as member of the Southwest LRT Management Committee and the Southwest LRT Community Works Steering Committee.

RESPONSIBILITIES

Each member of the Southwest CAC agrees to:

1. Attend a majority of CAC meetings (alternates will be allowed to participate in the committee discussions if CAC staff are notified prior to the meeting.)
2. Be a voice to advance the broader interests of the local community or interest they represent.
3. Routinely report back to their organization on the activities and discussions of the CAC as well as serve as a conduit of information to the broader community.
4. Actively participate in discussions by sharing ideas and expertise.
5. Identify issues affecting communities impacted by both the LRT project development and Community Works initiatives and assist in developing strategies for minimizing those impacts.
6. Provide feedback to the Southwest LRT Communication Steering Committee on the structure and effectiveness of the communication and public involvement efforts.
7. Listen to and respect the viewpoints of others.
8. Accept the outcome of decisions, once they are made.

MEMBERSHIP

Members will be appointed for a one-year term and reconfirmation of membership will be requested on an annual basis.

Membership is intended to represent the diverse interests and stakeholders along the Southwest LRT line and will therefore include people from neighborhood groups, special interest groups, advocacy groups, educational institutions and ethnic communities.

If an appointed member or alternate is no longer able to participate actively in the CAC, the organization that appointed that person will be allowed to name a replacement.

MEETINGS

The CAC will meet monthly on the second Thursday of every month, from 6:00-7:30 P.M. Meetings will be co-chaired by Jennifer Munt, Metropolitan Council District 3, and Jeanette Colby, Kenwood Isles Area Association.

Agendas will be distributed to all members at least five business days before the meeting.

Special meetings, open houses, subcommittees and focus groups will be scheduled at regular intervals and as needed.

To facilitate communication and a sharing of ideas and information, the CAC will meet jointly at least twice each year with the Business Advisory Committee (BAC). This meeting will replace a regularly scheduled CAC meeting.



October 14, 2008

Ms. Katie Walker, AICP
Transit Project Manager
Hennepin County Housing, Community Works & Transit
417 North 5th Street, Suite 320
Minneapolis, MN 55401

RE: Scoping for the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway Project

Dear Ms. Walker,

The City of St. Louis Park supports the work of the HCRRA and the development of LRT within the Southwest corridor at the earliest possible date. Improved transit service in the region and Hennepin County and, especially LRT in the Southwest corridor, is vital to future health and prosperity of our area. We applaud the County's leadership and steadfast commitment to bringing LRT service to Southwest Hennepin County.

A project of this magnitude and importance deserves careful planning and evaluation at each step of the process. We look forward to eagerly participating in the Draft Environmental Impact Statement (DEIS) process for the Southwest Transitway. We expect that a careful analysis of the potential impacts will be prepared; and, that potential mitigating measures (and necessary funding) to address any negative impacts will be identified for the corridor.

For St. Louis Park the potential impacts of the Southwest Transitway Project extend beyond the immediate Southwest Corridor itself. They include impacts associated with the potential relocation of freight rail from the trail corridor south of TH7 to the Canadian Pacific (CP) and Burlington Northern Santa Fe (BNSF) rail alignments which pass through the heart of St. Louis Park's residential areas. While we have issues that we have listed below that concern the proposed transitway itself, we especially ask that you make sure issues associated with the potentially rerouted freight rail are completely and comprehensively addressed.

Rerouted freight rail traffic is a big change with the potential to negatively affect many residents and businesses. It is an important issue that the community has anticipated for many years. In 1997 the City of St. Louis Park initiated the Railroad Task Force to study the impact of freight rail traffic on our community and the impact on our neighborhoods if freight rail would be rerouted from its

October 14, 2008

present tracks along Highway 7/25 to the north-south tracks in St. Louis Park. Such diversion would add significant train traffic to our neighborhoods, which include many homes within 50 ft. of the tracks, sometimes even closer. It would also result in a substantial increase of freight rail traffic immediately adjacent to St. Louis Park High School, and would significantly interfere with vehicle traffic on many already-congested streets, including Excelsior Blvd.

The Task Force expressed a strong preference that freight rail traffic not be rerouted through St. Louis Park, but acknowledged that such rerouting maybe necessary. It reached consensus on principles that should guide the relocation. St. Louis Park requests that the DEIS also use these principles to guide its evaluation of the impacts of the freight rail rerouting and the design of mitigating measures. The principles are:

- Rail traffic should run smoothly, entering and leaving St. Louis Park as efficiently and safely as possible;
- No de-coupling or switching of rail cars should take place in St. Louis Park;
- Noise, vibration, and other adverse impacts on adjacent neighborhoods must be minimized to the extent feasible;
- Safety of at-grade rail/street intersections must be improved for pedestrians, motorists and bicyclists;
- Freight rail traffic coming from the west or east must be split, with half diverted north and half south along the CP tracks

Funding must be made available to accomplish these principles, as part of the development of the SWLRT.

The City of St. Louis Park (SLP) submits the following comments and requests several items be included into the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway Project.

Elimination of Current "Bottleneck"

Two of the potential SWLRT routes (# 1A and 3A) would include a short segment (less than ¼ mile) near W. Lake St. where freight trains currently travel, that is currently too narrow to accommodate the SWLRT parallel to the existing freight rail tracks and bike trail. If either of these routes is selected and the narrow "bottleneck" is not widened or other steps are not taken to accommodate all three modes of transportation, the freight rail would have to be diverted elsewhere. Due to the scarcity of north-south tracks within Hennepin County, that diversion could likely be through St. Louis Park, on the Canadian Pacific and Burlington Northern Santa Fe rail alignments.

October 14, 2008

St. Louis Park recognizes that the costs and regulatory requirements necessary to implement the mitigation measures associated with freight rail diversion (please see below) will be significant. We therefore urge that the DEIS fully explore the feasibility and costs of alternatives that would eliminate the diversion of freight rail traffic through St. Louis Park.

We request consideration of the following alternatives:

- Purchase sufficient right-of-way adjacent to the "bottleneck" near W Lake St. to accommodate SWLRT, freight rail, and the bike trail.
- Reroute or elevate the bike trail to permit SWLRT and freight rail within the "bottleneck" at West Lake Street.

The costs of one or more of these alternatives, if adopted, likely could be significantly cheaper than the costs of mitigation for freight rail relocation, and would eliminate the extensive disruption to St. Louis Park neighborhoods that would be caused by freight rail diversion.

DEIS study requirements – Freight Rail Rerouting

Freight rail relocation would result in a major increase in freight traffic in residential neighborhoods within St. Louis Park, and many impacts need to be evaluated with the DEIS prior to any decision to affect this potential change. St. Louis Park requests that Hennepin County Regional Rail Authority (HCRRA) address and mitigate impacts on neighbors and neighborhoods adjacent to the CP and BNSF railways in the event that the freight rail is rerouted. The following items need to be evaluated as part of the DEIS process:

- Determine the amount of increased rail traffic that would occur from rerouting trains to the north and east.
- Analyze the need for upgraded tracks and railroad bridges to permit trains to safely and efficiently travel through St. Louis Park.
- Assess the noise, vibration, visual and aesthetic impacts on residences and businesses and determine how to mitigate, in consultation with adjacent neighbors and businesses them.
- Evaluate the specific impacts on St. Louis Park High School with regard to traffic, pedestrian crossings, noise impacts, and the disruption to the learning process from additional rail traffic.
- Evaluate all at-grade rail/street intersections to be improved for the safety of pedestrians, motorists and bicyclists, including the need for signalized crossings. Evaluate using the proper railroad protective devices and the increased noise from additional train traffic.
- Evaluate noise walls, landscaped berms, soundproofing insulation and/or other measures to mitigate negative impacts of rail traffic on the many hundreds of homes and the St. Louis Park Senior High School that are located immediately adjacent to the freight rail tracks.

- Determine if there is a need to purchase more property to accommodate and mitigate the impacts of more rail traffic. Consider purchase of adjacent homes within the usual and customary distance to the rail lines, to create a green buffer for other nearby homes and to provide adequate space to construct noise barriers.
- Evaluate the impacts of building two new bridge connections at the Golden Auto site and an additional rail interconnection at the "iron triangle" site (which must be done prior to the rerouting of any rail traffic).
- Consider that Three Rivers Park District is conducting a feasibility study for a north-south bike/walking trail. Any freight rail diversion should be examined for issues concerning mitigation with trail location, construction, and usage, including the safety impacts of these two adjacent uses.
- Consider the extent which freight rail cars contain hazardous substances as they travel through St. Louis Park, and the impact on our community of any potential derailment.
- Assess elimination of the rail "wye" in the Elmwood/Oxford neighborhood, on which trains are backed up, de-coupled and reconfigured. This is a lengthy and noisy process that adversely affects the neighborhood all hours of the day and night.
- Evaluate the possibility of moving the current rail switching and blocking operations (which occur in SLP, Hopkins, and Minnetonka) to Glencoe.

The potential diversion of freight rail traffic through St. Louis Park would not be necessary but for the potential construction of the SWLRT along Route Nos. 1A or 3A and the potential decision by HCRRA to decline to fix the "bottleneck". Absent such decisions, freight rail traffic could continue indefinitely on its present alignment through the Kenilworth corridor. We believe it is critical that funding be made available to evaluate these impacts on St. Louis Park, as part of the development of the SWLRT. Additionally, the costs of these required measures must be considered, and be transparent to the public, as an integral element of the overall costs of Route Nos. 1A and 3A, when the final route is selected.

DEIS Study Requirements – Additional Transit Impacts

There are a number of issues that need additional attention beyond the typical required DEIS items, due to associated transportation issues. To address these issues, St. Louis Park requests that HCRRA address the following items to be evaluated as part of the DEIS process:

- Address the need to grade separate the light rail line and trail at both Beltline Boulevard and Wooddale Avenue.
- Evaluate the impacts of access, circulation and traffic issues in the station areas.
- Determine the need for parking in the station areas, and determine the demand versus supply and the spillover impacts to neighborhoods.

Ms. Katie Walker, AICP

Page 5

October 14, 2008

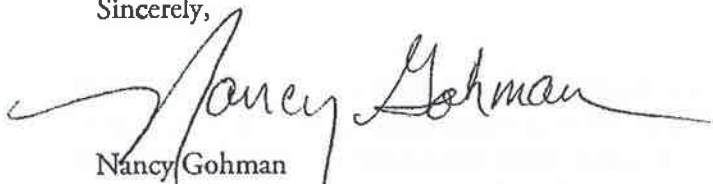
- Determine the need for a circulating feeder bus system to serve the transit stations; and resolve how that will be provided.

Conclusion

The full costs of rerouting freight rail traffic through St. Louis Park must be evaluated as part of route selection for SWLRT. The above suggests the types of improvements which will be necessary, and which require analysis as part of the DEIS process. We expect that these issues would be reviewed as part of this process and it is our request that the DEIS process incorporate all of our concerns as listed above. We additionally request that the DEIS process include at least one meeting within St. Louis Park to discuss these unique issues.

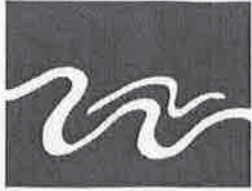
Thank you for your attention to these concerns.

Sincerely,



Nancy Gohman
Deputy City Manager

CC: Mayor Jeff Jacobs
Councilmember John Basill
Councilmember C. Paul Carver
Councilmember Phil Finkelstein
Councilmember Paul Omodt
Councilmember Loran Paprocki
Councilmember Sue Sanger
City Manager Tom Harmening
Jim Brimeyer, PAC Member
Lisa Miller, CAC Member
Bob Tift, CAC Member
Bill James, CAC Member
Shawn Klein, CAC Member



**Riley
Purgatory
Bluff Creek
Watershed District**

www.rileywd.org

Board of Managers

~~Joe Bischoff~~
Michael Casanova
Howard Peterson
Kristine Sundberg
Kenneth Wenzl

October 23, 2008

Katie Walker, AICP – Transit Project Manager
Hennepin County – Housing, Community Works & Transit
417 North Fifth Street, Suite 320
Minneapolis, Minnesota 55401-1362

Subject: Southwest Transitway Project
Invitation to Participate in Environmental Review Process - Response

Dear Ms. Walker:

Thank you for the invitation to the Riley Purgatory Bluff Creek Watershed District (District) to become a participating agency. The District's focus is maintaining and improving water quality of the water resources within the watershed. From the information you provided, it appears that the Southwest Transitway project will likely have a minimal potential impact to the water resources within the Riley Purgatory Bluff Creek Watershed. In addition, within the District, the possible routes follow existing transportation corridors.

Thus, from a District staff perspective (CH2M HILL is the District Engineer), I will be recommending to the Board of Managers at their next meeting (November 5) that the District not serve as a participating agency. However, the District is interested in following the project as it develops and welcomes the opportunity to submit comments when appropriate. Please keep me apprised of developments and opportunities to comment.

If you have any questions or concerns, please feel free to contact me at Mark.Enochs@CH2M.com or 651.365.8542.

Sincerely,

CH2M HILL, INC.
District Engineer

Mark B. Enochs
Vice President/Program Manager

c: Board of Managers

NOV 03 2008



St. Louis Park Public Schools
Achieving success, one student at a time.

**St. Louis Park Public Schools
District Offices**

6425 West 33rd Street
St. Louis Park, Minnesota 55426-3498
952.928.6000 phone
952.928.6020 fax
www.slpschools.org

12.13.16

October 31, 2008

Southwest Corridor
Hennepin County Transit
417 North 5th Street
Minneapolis, MN 55401

To Whom It May Concern:

This letter serves to provide notice of Independent School District No. 283's concerns regarding the proposed routes for the Southwest Transitway LRT line. The St. Louis Park School Board recently reviewed the planned routes of the proposed Southwest Transitway LRT line and believes that there are several concerns that should be addressed during the Draft Environmental Impact Statement process that is underway.

The Board understands that some of the proposed routes of the SW Transitway LRT line may force additional freight train traffic onto the rail line that runs parallel to the south boundary of St. Louis Park Senior High School, located at 6435 West 33rd Street. The additional freight traffic in close proximity to the high school raises safety, noise and vibration impact concerns.

Frequent train traffic operating in the vicinity of our student population likely presents increased risks to both pedestrian and vehicular traffic. Two grade level street crossings currently exist at the southeast and southwest corners of the high school property, with the southeast crossing separating the high school from a McDonald's restaurant frequented by large numbers of our students.

Noise impact is the second concern raised by the proposed LRT lines. Currently, noise generated by trains that travel on this line disrupts the learning process. The close proximity of the high school to the Dakota Avenue crossing with no noise remediation causes distractions to both staff and students from the train travel and the associated horns. Increasing the frequency of these disruptions would compound the already unfavorable conditions.

Finally, although less immediately perceptible, vibration from heavy freight trains may cause damage to nearby structures including district-owned facilities as well as disruptions during the school day.

We appreciate the opportunity to add our input during the scoping process and would welcome a formal presentation by the Hennepin County Regional Railroad Authority to discuss these issues at a future St. Louis Park school board meeting.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Bruce Richardson", with a long horizontal flourish extending to the right.

Bruce Richardson

St. Louis Park Board of Education Chair

cc City of St. Louis Park



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

10.1.3.1c

NOV 06 2008

REPLY TO THE ATTENTION OF:

E-19J

Marisol Simon
Regional Administrator, Region 5
Federal Transit Administration
200 West Adams Street, Suite 2410
Chicago, IL 60604

RE: Scoping Comments on the Notice of Intent to Prepare an Environmental Impact Statement for the Southwest Transitway Project in Hennepin County, Minnesota

Dear Ms. Simon:

This letter is provided in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. The U.S. Environmental Protection Agency (EPA) anticipates reviewing the Environmental Impact Statement (EIS) your agency is preparing for the Southwest Transitway Project in Hennepin County, Minnesota. We have reviewed the September 25, 2008, Notice of Intent (NOI) to prepare an EIS, the Green Means Go scoping information booklet, and the Coordination Plan, dated September 2008. We also participated in the October 15, 2008 Interagency Scoping Meeting.

A Minneapolis southwest public transit corridor has been under consideration since 1980. This corridor is defined and anchored by the two large residential/employment centers of downtown Minneapolis and the southwest Golden Triangle. Following a series of studies and plans, a Southwest Rail Transit Study was begun in 2003, resulting in the publication of the Southwest Transitway Alternatives Analysis in 2007. Although an extensive roadway/expressway system and a significant and successful bus system serves the metropolitan region, including this corridor, three needs are identified as unmet by the available transportation systems. This proposal's purpose and need are to: 1) improve mobility in this congested corridor; 2) develop a competitive rapid transit alternative for public-transit-dependent and transit-choice travelers; and 3) provide reverse commute service, which is currently unavailable for this area.

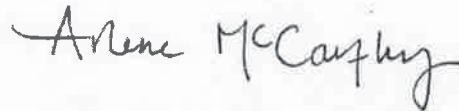
Alternatives include a NEPA baseline No-Build proposal and a New Starts baseline of Transportation System Management (TSM) modifications combined with enhanced bus service. Three build alternatives are being brought forward, proposing different routes for a light rail transit system comparable to and compatible with the Hiawatha and Central Corridor Lines. All three alternatives would connect to other transit lines at the downtown Minneapolis Intermodal

As always, we appreciate Hennepin County's and the Hennepin County Regional Railroad Authority's strong and consistent advocacy of transit as a key feature in moving our metropolitan area towards a sustainable transportation future.

Sincerely,



Brian J. Lamb
General Manager
Metro Transit



Arlene McCarthy
Director
Metropolitan Transportation Services

C: Peter Bell
Tom Weaver
Vince Pellegrin
Julie Johanson
Mark Fuhrmann
John Levin
Tom Thorstenson
Amy Vennewitz

Station, extend southwest through St. Louis Park and Hopkins, and terminate along State Route 5 in Eden Prairie.

It is clear from the existing Hiawatha Line and the developing Central Corridor Line, that the metropolitan Minneapolis-St. Paul region is developing a public rapid transit system. Therefore, one purpose for this Southwest Transitway project would seem to be to extend the developing regional rail transit system to this corridor of the metropolitan area and thus provide direct access from this southwest area to the other branches of the rapid transit system. We recommend that the DEIS discuss this concept more directly in the purpose and need.

We would appreciate the opportunity to work with FTA, providing additional, more specific guidance as this project progresses and planning becomes more refined and specific. Based upon the information provided to date, EPA will look for more clarification in the DEIS regarding issues of air quality, water resources, and other impacts including, but not limited to the following:

Air Quality

- This project must demonstrate transportation conformity with the State Implementation Plan for air quality in the Minneapolis-St. Paul metropolitan region. Air conformity modeling and determinations should be presented in the DEIS using current air quality data and approved methodologies, including for "hot spots" at a number of at-grade crossings with potential to create local congestion pollution. The DEIS should quantify the net air emission consequences for each of the alternatives.
- There is a growing awareness of carbon dioxide and other greenhouse gases as they may affect our global climate. While this transit project is anticipated to reduce such emissions from private vehicles, the system may add bus diesel exhaust and electric generation emissions for trains. The DEIS should quantify these emissions and discuss their general impact upon the global climate. It would also be appropriate to consider how climate changes may impact this project.

Water Resources

- Discussion of avoiding, minimizing and mitigating for impacts to surface waters, wetlands, and floodplain areas affected by the project should be presented in the DEIS, for project construction, maintenance and operational impacts. This should include provisions for the handling of stormwater run-off volumes and pretreatment prior to discharging to natural water resources.
- The DEIS should provide specific mitigation details and commitments, including maintenance of such water resource impact mitigations. An adaptive management program for these functions may be appropriate.

Other Impacts

- The DEIS should discuss all impacts arising from project ancillary operations, including storage and maintenance facilities, power stations, electric generation and other utilities.
- Park and ride stations are indicated in figures provided, but the agency scoping meeting suggested some key station locations may not be able to accommodate much parking. Alternate station locations, use of parking decks, feeder bus networks, and other measures should be considered to enhance rider access and thus optimize ridership so the project purpose and need are

met and environmental justice community needs are adequately addressed.

- Environmental justice communities should be defined and identified, including maps. All potential and applicable impacts to these communities should be assessed in the DEIS.

- Considerations for safety issues, including emergency responders, should be discussed.

- Any toxic or hazardous waste sites that might be disturbed by the project should be identified, mapped, and assessed for possible remediation.

- Impacts and contributions to the existing transportation network including freight/industrial, automotive, pedestrian, and bicycle modes should be fully presented in the DEIS.

- Indirect and cumulative impacts should include specific considerations for neighborhoods along the right-of-way, socioeconomic impacts, land use changes as they affect both society and natural resources, invasive species, and other impacts specific to this area.

- All historic and cultural resources should be located, mapped, and discussed as to how they might be affected and how these impacts can be mitigated.

- Noise and vibration generators and receptors should be identified, mapped and fully discussed, with minimization and mitigation options evaluated.

We have agreed to be a participating agency on this project, consistent with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). EPA always retains its NEPA designated role of participating in federal project development of Purpose and Need, alternatives, methods of evaluation, and measures for avoidance, minimization and mitigation of impacts to the human and natural environment. We also retain our independent responsibility to review and comment for the public record on the DEIS. We intend to fully participate in this project concurrent with these designated responsibilities.

Thank you for the opportunity to provide these scoping comments. A hard copy of the project Alternatives Analysis published in 2007 would be appreciated. If you have any questions on our comments, please contact myself or Norm West, by phone at (312) 353-5692 or by e-mail at west.norman@epa.gov.

Sincerely,



Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

- NO reasonable context

1998

Cc: Ms. Katie Walker
Transit Project Manager
Hennepin County Housing, Community Works & Transit
417 North 5th Street, Suite 320
Minneapolis, Minnesota 55401

SAFETY IN THE PARK!

APPENDIX

OTHER SUPPORTING DOCUMENTS

- a. Rail Road comments to the MN&S Freight Rail EAW
http://mnsrailstudy.org/yahoo_site_admin/assets/docs/Railroad_Comments.18891450.pdf
- b. City of St Louis Park appeal
- c. MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray, et al
- d. Office of Hennepin County letter, dated Dec. 19, 2011
- e. MnDot Resolution, dated Dec. 20, 2011
- f. LaPray Response to the motion to dismiss Jan 10, 2012
- g. April 18, 2011 SEH DRAFT Technical Memo #4 - Comparison of the MN&S Route & The Kenilworth Route.
[Key findings from SEH DRAFT Technical Memo # 4](#)
http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf

**STATE OF MINNESOTA
IN COURT OF APPEALS**

City of St. Louis Park,

Petitioner,

**STATEMENT OF THE CASE
OF PETITIONER**

vs.

Minnesota Department
of Transportation,

Appellate Court Case No. _____

Respondent.

1. Court or agency of case origination and name of presiding judge or hearing officer.

Minnesota Department of Transportation (MnDOT); Frank Pafko, Chief Environmental Officer.

2. Jurisdictional statement.

This is a certiorari appeal of the decision by MnDOT making a negative declaration regarding the need for an Environmental Impact Statement for the MN&S Freight Rail Study in St. Louis Park and Minneapolis, Hennepin County, Minnesota. The decision is dated June 30, 2011 and received by Petitioner on July 8, 2011. The statute authorizing certiorari review and fixing the time limit is Minn. Stat. § 116D.04, Subd. 10 (2010), *as amended by* 2011 Minn. Laws, Ch. 4, § 8. The time limit is 30 days from receipt of the decision.

3. State type of litigation and designate any statutes at issue.

This an appeal of the decision by MnDOT acting as the Responsible Governmental Unit (RGU) not to perform an Environmental Impact Statement (EIS) relating to the proposed rerouting of freight rail traffic in St. Louis Park. The project proposer is the Hennepin County Regional Railroad Authority.

Statutes and rules at issue include Minn. Stat. § 116D.04(2010); Minn. Rule 4410.1000, Subp. 4 (2010); Minn. Rule 4410.1700 (2010).

4. Brief description of claims, defenses, issues litigated and result below.

MnDOT prepared an Environmental Assessment Worksheet (EAW) for the purpose of determining if the proposed project has the potential for significant environmental effects

requiring the preparation of a more extensive Environmental Impact Statement (EIS). MnDOT made a negative declaration determining that the proposed project does not have the potential for significant environmental effects and that an EIS is not required.

Petitioner, the St. Louis Park School District and numerous citizens participated in the proceeding and submitted substantial evidence demonstrating the significant environmental impacts of the proposed project and necessary mitigation.

In making its decision that an EIS was not necessary, MnDOT treated the Southwest Light Rail Transit Project as a separate project without making any determination supported by Findings as to whether the two projects are connected actions requiring that they be considered one project for purposes of determining the need for an EIS. MnDOT failed to determine that the two projects are connected actions even though the light rail project as currently configured requires the removal of freight rail tracks in the Kenilworth corridor in Minneapolis and the rerouting of trains using those tracks to a reconfigured connection through St. Louis Park.

MnDOT's failure to follow applicable rules relating to connected actions eliminated any comparative analysis of the environmental impacts of co-locating light rail with the existing freight rail tracks in the Kenilworth corridor versus rerouting freight rail through St. Louis Park.

5. List specific issues proposed to be raised on appeal.

- a. The record does not support MnDOT's determination that the proposed project does not have the potential for significant environmental effects.
- b. MnDOT's decision is arbitrary and capricious.
- c. MnDOT did not comply with Minn. Rule 4410.1000, Subp. 4 because it failed to treat the proposed MN&S Freight Rail Project and the Southwest Light Rail Transit Project as connected actions in determining the need for an EIS.
- d. MnDOT did not comply with Minn. Rule 4410.1700, Subp. 9 because it failed to treat the proposed MN&S Freight Rail Project and the Southwest Light Rail Transit Project as a single project for purposes of the determination of need for an EIS.

6. Related appeals.

Jami Ann LaPray, et al. v. Minnesota Department of Transportation,
Appellate Court File No. A111345.

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes () No (X)

If a transcript is unavailable, is a statement of the proceeding under Rule 110.03 necessary? Yes () No (X)

In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04? Yes () No (X)

8. **Is oral argument requested?** Yes (X) No ()

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes () No (X)

9. **Identify the type of brief to be filed.**

Formal brief under Rule 128.02

10. **Names, addresses, zip codes and telephone numbers of attorney for appellants and respondents:**

Thomas M. Scott, #98498
Campbell Knutson, *Professional Association*
1380 Corporate Center Curve, Suite 317
Eagan, Minnesota 55121
651-452-5000
Attorney for Appellant

Lori Swanson, Attorney General
1400 Bremer Tower
445 Minnesota Street
St. Paul, Minnesota 55101-2127
651-296-7341
Attorney for Respondent

Dated: August 5, 2011

CAMPBELL KNUTSON
Professional Association

By: 

Thomas M. Scott, #98498
Attorneys for Appellant
1380 Corporate Center Curve, Suite 317
Eagan, Minnesota 55121
Telephone: 651-452-5000

Nos. A11-1345 and A11-1386

State of Minnesota
In Court of Appeals

Jami Ann LaPray, et al.,

Relators,

v.

Minnesota Department of Transportation,

Respondent.

BRIEF OF RELATORS LAPRAY, ET AL.

THE ENVIRONMENTAL LAW
GROUP, LTD.

Thaddus R. Lightfoot (#24594X)
133 First Avenue North
Minneapolis, MN 55401
(612) 623-2363

Attorneys for Relators LaPray, et al.

CAMPBELL KNUTSON

Thomas M. Scott (#98498)
1380 Corporate Center Curve
Suite 317
Eagan, MN 55121
(651) 452-5000

Attorney for Relator City of St. Louis Park

OFFICE OF THE ATTORNEY
GENERAL

State of Minnesota
Patrick Whiting (#0387112)
Assistant Attorney General
445 Minnesota Street, Suite 1800
St. Paul, MN 55101-2134
(651) 757-1198

Attorneys for Respondent

TABLE OF CONTENTS

	Page
Table of Authorities	iv
Statement of Issues Presented.....	1
Statement of the Case	2
Statement of Facts.....	3
Argument	11
I. Standard of Review	11
II. The MN&S Freight Rail Project EAW Violates MEPA By Failing To Consider the Southwest Corridor Light Rail Transit Project as a Connected Action and a Phased Action.....	13
A. The MN&S Freight Rail Project EAW Is Inadequate Because It Fails to Consider the SWLRT Project as a Connected Action	14
B. The MN&S Freight Rail Project EAW is Inadequate Because it Fails To Consider the SWLRT Project as a Phased Action.....	19
III. The MN&S Freight Rail Project EAW Analysis of Noise and Vibration Impacts, and of Measures To Mitigate Those Impacts, Is Inadequate	20
A. The EAW Assessment of the Project's Noise and Vibration Is Arbitrary and Capricious	21
1. MnDOT's Analysis of the Project's Noise and Vibration Impacts Relies Upon Inaccurate Information and Omits Relevant Data	21
2. MnDOT's Failure to Respond to the Substance of Comments on the EAW's Noise and Vibration Impact Analysis Violates MEPA.....	25

B.	The EAW Discussion of Measures To Mitigate Noise and Vibration From the Project Fails To Satisfy MEPA	27
IV.	The EAW Analysis of the Project's Safety Impacts Is Inadequate	30
	Conclusion	35
	Certification of Brief Length	36
	Addendum.....	37

TABLE OF AUTHORITIES

	Page
STATE CASES	
<i>Citizens Advocating Responsible Dev. v. Kandiyohi County</i> , 713 N.W.2d 817 (Minn. 2006)	11-13, 27, 29
<i>Concept Properties, LLP v. City of Minnetrista</i> , 694 N.W.2d 804 (Minn. Ct. App. 2005).....	12
<i>In re Estate of Turner</i> , 391 N.W.2d 767, 771 (Minn. 1986)	7, 8, 10, 12, 17
<i>Minn. Ctr. for Envtl. Advocacy v. Minn. Pollution Control Agency</i> , 644 N.W.2d 457 (Minn. 2002)	16, 27
<i>Minn. Dep't of Highways v. Halvorson</i> , 181 N.W.2d 473 (Minn. 1970).....	7, 8, 10, 17
<i>Minn. Pub. Interest Research Group v. Minn. Envtl. Quality Council</i> , 237 N.W.2d 375, 380-81 (Minn. 1975)	16
<i>Nat'l Audubon Soc'y v. Minn. Pollution Control Agency</i> , 569 N.W.2d 211 (Minn. Ct. App. 1997).....	27, 29
<i>No Power Line, Inc. v. Minn. Envtl. Quality Council</i> , 262 N.W.2d 313, 327 (Minn. 1977)	16, 21
<i>Reserve Mining Co. v. Herbst</i> , 256 N.W.2d 808 (Minn. 1977).....	26
<i>Trout Unlimited, Inc. v. Minn. Dep't of Ag.</i> , 528 N.W.2d 903 (Minn. Ct. App. 1995).....	passim
FEDERAL CASES	
<i>Appalachian Mt. Club v. Brinegar</i> , 394 F. Supp. 105 (D.N.H. 1975)	33
<i>Audubon Soc'y of Central Ark. v. Dailey</i> , 977 F.2d 428 (8th Cir. 1992)	9, 10
<i>Blue Mts. Biodiversity Project v. Blackwood</i> , 161 F.3d 1208 (9th Cir. 1998)	23, 27
<i>Blue Ocean Pres. Soc'y v. Watkins</i> , 754 F. Supp. 1450 (D. Haw. 1991).....	16
<i>Davis v. Mineta</i> , 302 F.3d 1104 (10th Cir. 2002).....	2, 25, 27

<i>Dune Citizens Against Ruining Our Environment v. Klein</i> , 747 F. Supp.2d 1234 (D. Colo. 2010)	15
<i>Envtl. Defense Fund v. U.S. Army Corps of Eng'rs</i> , 515 F. Supp.2d 69 (D.D.C. 2007).....	30
<i>Friends of the Earth v. Hall</i> , 693 F. Supp. 904 (W.D. Wash. 1988).....	28, 30
<i>High Sierra Hikers Ass'n v. Weingardt</i> , 521 F.Supp.2d 1065 (N.D. Cal. 2007)	29
<i>Marsh v. Oregon Natural Res. Council</i> , 490 U.S. 360 (1989).....	33-34
<i>Massachusetts v. Env'tl. Protection Agency</i> , 549 U.S. ___, 127 S. Ct. 1438 (2007)	7, 12
<i>Nat'l Audubon Soc'y v. Dep't of the Navy</i> , 422 F.3d 174 (4 th Cir. 2005)	23, 32
<i>Nat'l Parks & Conserv. Ass'n v. Bureau of Land Management</i> , 606 F.3d 1058 (9th Cir. 2010)	23
<i>Navajo Nation v. United States Forest Serv.</i> , 479 F.3d 1024 (9th Cir. 2007), <i>opinion adopted en banc</i> , 535 F.3d 1058 (9th Cir. 2008), <i>cert. den.</i> , 129 S.Ct. 2763 (2009)	25, 27, 34
<i>Neighbors of Cuddy Mt. v. United State Forest Serv.</i> , 137 F.3d 1372 (9th Cir. 1998)	28-30
<i>Oregon Nat. Res. Council v. Harrell</i> , 52 F.3d 1499 (9th Cir. 1995).....	28, 30
<i>Robertson v. Methow Valley Citizens Council</i> , 490 U.S. 332 (1989)	28
<i>Save the Yaak Committee v. Block</i> , 849 F.2d 714 (9th Cir. 1988)	15
<i>Sierra Club v. Dombeck</i> , 161 F. Supp. 2d 1052, 1067 (D. Ariz. 2001)	15
<i>Sierra Club v. U.S. Dept. of Energy</i> , 255 F. Supp. 2d 1177 (D. Colo. 2002)	15
<i>The Lands Council v. Powell</i> , 395 F.3d 1019 (9th Cir. 2005).....	24
<i>Thomas v. Peterson</i> , 753 F.2d 754, 758 (9th Cir. 1985)	15, 18
<i>Wilderness Soc'y v. Bosworth</i> , 118 F.Supp.2d 1082 (D. Mont. 2000).....	29

<i>Silva v. Lynn</i> , 482 F.2d 1282 (1st Cir. 1973)	25, 27, 34
--	------------

STATUTES

Minnesota Environmental Policy Act, Minn. Stat. § 116D.02, subd. 1	27
---	----

Minnesota Environmental Policy Act, Minn. Stat. § 116D.04, subd. 10	12
--	----

RULES

Minn. R. 4410.0200, subp. 9c	1, 14, 17
------------------------------------	-----------

Minn. R. 4410.0200, subp. 23	22, 27
------------------------------------	--------

Minn. R. 4410.0200, subp. 60	19
------------------------------------	----

Minn. R. 4410.0200, subp. 65	22, 29
------------------------------------	--------

Minn. R. 4410.0300, subp. 3	1, 24, 29, 34
-----------------------------------	---------------

Minn. R. 4410.1000, subp. 4	1, 14, 18-20
-----------------------------------	--------------

Minn. R. Evid. 201	7, 12
--------------------------	-------

STATEMENT OF ISSUES PRESENTED

1. Whether the Minnesota Department of Transportation ("MnDOT") acted arbitrarily and capriciously, in excess of its statutory authority, in violation of constitutional provisions, without lawful procedure, in error of law, or without the support of substantial evidence in determining that the Environmental Assessment Worksheet ("EAW") for the proposed MN&S Freight Rail Project complies with the procedures of the Minnesota Environmental Policy Act ("MEPA").

MnDOT determined that the EAW complied with the procedures of MEPA.

Citations: Minn. R. 4410.1000, subp. 4; Minn. R. 4410.0200, subp. 9c; Minn. R. 4410.0200, subp. 60; *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808 (Minn. 1977); *Thomas v. Peterson*, 753 F.2d 754 (9th Cir. 1985).

2. Whether MnDOT acted arbitrarily and capriciously, in excess of its statutory authority, in violation of constitutional provisions, without lawful procedure, in error of law, or without the support of substantial evidence in determining that the EAW for the proposed MN&S Freight Rail Project is adequate under MEPA.

MnDOT determined that the EAW is adequate under MEPA.

Citations: Minn. R. 4410.0300, subp. 3; *Citizens Advocating Responsible Dev. v. Kandiyohi County*, 713 N.W.2d 817 (Minn. 2006); *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808 (Minn. 1977); *Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903 (Minn. Ct. App. 1995); *Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372 (9th Cir. 1998).

3. Whether MnDOT acted arbitrarily and capriciously, in excess of its statutory authority, in violation of constitutional provisions, without lawful procedure, in error of law, or without the support of substantial evidence in determining that the proposed MN&S Freight Rail Project does not have the potential for significant environmental effects and that an environmental impact statement ("EIS") is not needed under MEPA.

MnDOT determined that the proposed MN&S Freight Rail Project does not have the potential for significant environmental effects and that an EIS is not needed under MEPA.

Citations: Citizens Advocating Responsible Dev. v. Kandiyohi County, 713 N.W.2d 817 (Minn. 2006); *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808 (Minn. 1977); *Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903 (Minn. Ct. App. 1995); *Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372 (9th Cir. 1998).

STATEMENT OF THE CASE

Relators concur in the Statement of the Case set forth in the City of St. Louis Park's appellate brief. In addition, Relators offer the following Statement.

Relators challenge the adequacy of EAW under MEPA, Minn. Stat. §§ 116D.01 to 116D.11. (Add. 01 to Add. 12.)¹ The EAW evaluates the proposed MN&S Freight Rail Project ("proposed project"), a proposal by the Hennepin County Regional Railroad Authority (HCRRA) to realign and construct railroad track connections,

¹ Relators' brief refers to its Appendix as "A-01" and to its Addendum as "Add. 01."

primarily within the City of St. Louis Park, to relocate freight train operations that currently use the Kenilworth Corridor in Minneapolis. The Statement of Facts describes the proposed project in detail.

MnDOT, the responsible governmental unit under MEPA for the proposed project, prepared the EAW and placed it on public notice in May 2011. The comment period for the EAW closed on June 15, 2011. During the comment period numerous parties, including the City of St. Louis Park, the St. Louis Park Public Schools, and many of the Relators submitted comments critical of the EAW. Among other things, the comments addressed the EAW's inadequate analysis of the adverse impacts of the proposed project, including but not limited to the effects of noise and vibration from new or increased freight rail traffic, and the inadequate discussion of possible mitigation measures.

On June 30, 2011, MnDOT determined that the EAW complies with the procedures of and is adequate under MEPA, and that an EIS is not needed. On July 28, 2011, Relators filed a certiorari appeal with this Court challenging MnDOT's determination that the EAW complies with MEPA. (A11-1345.) The City of St. Louis Park also filed a certiorari appeal regarding the proposed project on August 5, 2011. (A11-1386.) On August 12, 2011, this Court issued an order consolidating the two certiorari appeals.

STATEMENT OF FACTS

Relators are residents of or business owners in St. Louis Park who live, work, or send their children to school in close proximity to the route that under the proposed project will carry freight rail traffic currently using the Kenilworth Corridor. Relators

are aggrieved by MnDOT's decision that the EAW complies with MEPA. They will suffer by being subjected to the adverse effects associated with the proposed project, including but not limited to increased noise and vibration, safety hazards, and decreased property values.

The proposed project involves physical and operational changes to the three primary rail alignments in the City of St. Louis Park:

1. The Bass Lake Spur: The Bass Lake Spur is a CP-owned east-west oriented line that runs through St. Louis Park toward Minneapolis. (A-89, A-94.) In the project area, the Bass Lake Spur is a double track consisting of 112-pound jointed rail. (A-94.) The Twin Cities and Western Railway (TC&W) currently runs light and medium tonnage local freight trains over the alignment, as well as high tonnage coal and ethanol trains. *Id.* Maximum speed on the Bass Lake Spur in the project area is 25 mph for regular freight trains, and 10 mph for coal trains. *Id.*

2. The Wayzata Subdivision: This is a BNSF-owned east-west oriented line that runs through St. Louis Park approximately parallel to, and 1.5 miles north of, the Bass Lake Spur. (A-89, A-95). It also continues on to Minneapolis. (A-96.) The line is a single track in the project area and consists primarily of 115-pound rail, with some sections replaced by 132- and 141-pound rail. *Id.*

3. The MN&S Spur: This CP-owned line runs north-south within the project area, between Louisiana Avenue and Highway 100, through the center of St. Louis Park. Unlike the Bass Lake Spur and the Wayzata Subdivision, the MN&S Spur was designed for light-tonnage (10 to 30 car trains), slow-speed trains, and is constructed

primarily of 90-pound jointed rail. (A-95.) Currently, the only train regularly operating on the MN&S Spur is a light tonnage train that CP operates on a daily round-trip on weekdays to serve local industrial rail customers, none of which are located within project limits. (A-92.) The MN&S Spur crosses the Bass Lake Spur and the Wayzata Subdivision on overhead bridges and does not have direct connections with either line. (A-94, A-96.) However, there is an indirect connection with the Bass Lake Spur via a railway wye in the area known as Skunk Hollow, and at one time there was also a wye connecting the MN&S with the Wayzata Subdivision. *Id.*

The project is a proposal by HCRRA to change the route that the TC&W freight trains travel through St. Louis Park and into Minneapolis. (A-96 to A-98, A-192.) Currently, the TC&W freight trains arriving from the West take the Bass Lake Spur through St. Louis Park to West Lake Street in Minneapolis (just northwest of Lake Calhoun) (A-192). From there, the trains continue on to the Cedar Lake Junction (just south of the intersection of Highway 394 and Penn Avenue) on track owned by HCRRA in what is known as the Kenilworth Corridor. *Id.* At the Cedar Lake Junction, the TC&W trains connect with the BNSF Wayzata Subdivision, which continues on through Minneapolis and into St. Paul. *Id.* Under HCRRA's proposed project the TC&W freight trains would still begin their route on the Bass Lake Spur and still connect with the BNSF Wayzata Subdivision. (A-96 to A-98, A-192.) But rather than taking the Kenilworth Corridor between the two lines, the trains would be rerouted onto the MN&S Spur north through St. Louis Park, where they would then connect with the Wayzata Subdivision and continue on into Minneapolis. *Id.*

To affect these changes, the proposed project includes constructing a direct northbound track connection from the Bass Lake Spur to the MN&S Spur; constructing a direct northbound track connection from MN&S Spur to the Wayzata Subdivision; and upgrading the track on the MN&S line to accommodate the much bigger and faster TC&W freight trains. (A-91 to A-92.) The physical changes to the MN&S line will be substantial and will include upgrading the track to meet FRA Class 2 operations (train speeds of up to 25 mph); replacing the existing MN&S rail with 136-pound welded rail and all-new ballast, ties, and track switches; closing the 29th Street at-grade crossing; and enhancing track signalization. *Id.*

The increase in train traffic through St. Louis Park will also be substantial. Under the proposed project, freight rail traffic through the City of St. Louis Park will increase by 232.5 percent. (A-410.) In addition to the existing CP trains on the MN&S Spur, the new TC&W trains using the line—most of them traveling at 25 mph, over twice the speed of existing CP trains—will include the following:

- One freight train with 2-4 locomotives and 50 cars operating 6 days per week;
- Another freight train with 2-4 locomotives and 20 cars operating 3-4 days per week;
- A unit ethanol train with 2 locomotives and 80 cars operating once every 2 weeks; and
- A unit coal train with 4 locomotives and 120 cars, operating once every 2 weeks in one direction only.

(A-92 to A-93.) In addition to these permanent changes to the MN&S railway and the surrounding community, St. Louis Park residents will also be adversely affected by

construction of the proposed project, which is expected to last at least two construction seasons. (A-99.)

Because of the way the MN&S line was designed and the way the community has developed around it, the proposed project will have a particularly profound effect upon the surrounding residents of St. Louis Park.² The MN&S track, which runs straight through the center of the City, was designed for light-tonnage slow-speed trains—10 to 30 car trains traveling at 10 mph or less—and since its inception, that is how the MN&S Spur has been used. (A-95.) The light-duty nature of the railroad has made possible a relatively safe coexistence with the vibrant mix of residential neighborhoods, businesses, schools and parks that has grown up around—and in very close proximity to—the MN&S Spur. Seventy-nine of the 105 City parcels adjacent to the railway are residential, many with backyards abutting the line and houses within 50 feet of the centerline of the tracks. (A-410.) There are also seven schools in the project area project (A-145), including St. Louis Park High School, which has athletic

² Although located only minutes from downtown Minneapolis, St. Louis Park, with a population of just over 45,000, prides itself on having the feel of a small town. The city, which was incorporated in 1886, boasts low unemployment, thriving schools, a close-knit community, and 51 parks connected by numerous biking and walking trails. See www.stlouispark.org. This Court may take judicial notice of information on the City of St. Louis Park web site. See, e.g., *In re Estate of Turner*, 391 N.W.2d 767, 771 (Minn. 1986) (allowing court to take judicial notice of information in the public record or information that the court could refer to in the course of its own research); *Minn. Dep't of Highways v. Halvorson*, 181 N.W.2d 473, 476 n.5 (Minn. 1970) (taking judicial notice of documents in the state's public records). See also *Massachusetts v. EPA*, 124 S.Ct. 1438, 1458 n.22 (2007) (citing 2005 documents in reviewing a 2003 EPA administrative decision); Minn. R. Evid. 201 (court may take judicial notice of fact not subject to reasonable dispute that is either generally known within the territorial jurisdiction of the trial court or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned). (Add. 28 to Add. 29.)

fields and a parking lot immediately adjacent to the tracks and whose students regularly cross the tracks to access restaurants and other businesses on the other side. (A-409.) The MN&S Spur intersects many of the City's primary streets, and the majority of these intersections are simple at-grade crossings. (A-95.) Similarly, the MN&S Spur runs through many of the City's parks and recreational areas, including Roxbury and Keystone parks, which abut the railway and are separated only by the tracks. (A-407.) Despite the lack of a formal trail crossing between the two parks, park users routinely cross the tracks—a trespass that is relatively risk-free with the current limited train traffic. *Id.* As a result of how closely the railroad and the City are intertwined in this way, even the smallest physical and operational changes to the railway will have dramatic effects on the surrounding community.

The proposed project is also connected to and phased with HCRRA's plans for a southwest light rail transit line ("SWLRT") between Eden Prairie and Minneapolis. Planning for the SWLRT is nearing completion: the SWLRT project has entered the preliminary engineering stage, and HCRRA expects to issue a DEIS for the SWLRT before year end.³ The HCRRA, the project proposer and current RGU for the SWLRT project, purchased the Kenilworth Corridor from the Chicago Northwestern Railroad decades ago to preserve the right-of-way for future light rail transit use. (A-87.) HCRRA allowed the TC&W temporary use of the Kenilworth Corridor right-of-way

³ For an updated status of the SWLRT project, see www.southwesttransitway.org. This Court may take judicial notice of information on the SWLRT web site. See, e.g., *In re Estate of Turner*, 391 N.W.2d at 771; *Halvorson*, 181 N.W.2d at 476 n.5 (Minn. 1970).

for freight rail “with the understanding that freight rail was only a temporary and [that TC&W] would vacate the corridor” when HCRRA proposed the SWLRT project. (A-507.)

In the fall of 2009 HCRRA recommended as the SWLRT Locally Preferred Alternative (LPA) a route that would run alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis.⁴ Also in the fall of 2009, HCRRA in the TC&W Freight Train Realignment Study concluded that the Kenilworth Corridor right-of-way could not accommodate both the proposed SWLRT and the existing TC&W freight rail lines. (A-509.) Accordingly, HCRRA recommended removing the TC&W trains from the Kenilworth Corridor and rerouting them north through St. Louis Park on the MN&S Spur to connect with the BNSF Wayzata Subdivision in the northern part of the City. (A-524.) This rerouting of the TC&W freight trains is essentially the current proposed project addressed in the EAW.

In May 2011, MnDOT, the responsible governmental unit under MEPA for the proposed project, prepared an EAW for the project and placed the EAW on public notice. (A-86.) The comment period for the EAW closed on June 15, 2011. During the comment period numerous parties, including the City of St. Louis Park, the St. Louis Park Public Schools, and many of Relators submitted comments critical of the EAW. Among other things, the comments addressed the EAW’s inadequate analysis of the

⁴ See www.southwesttransitway.org. In May 2010, the Metropolitan Council approved the Kenilworth route and has amended the Regional Transportation Policy Plan accordingly. *Id.*

adverse impacts of the proposed project, including but not limited to: the effects of noise and vibration from new or increased freight rail traffic; the increased safety risks presented by the increased frequency, speed, and length of TC&W freight trains on the MN&S Spur; increased air emissions resulting from the introduction of TC&W freight trains to the area; impacts on traffic and emergency response times; noise, dust, and odors from construction of the project; and risks presented by potential disturbances of hazardous waste sites in the project area during construction. (See, e.g., A-392 to A-670.) Relators also addressed the EAW's failure to offer adequate mitigation for these and other adverse effects, as well as the HCRRA's failure to adequately address connected actions, including the SWLRT, and cumulative effects associated with the proposed project. *Id.*

As early as May 1996, the City of St. Louis Park passed a resolution opposing the increase of freight rail traffic through the city because of its adverse affects on residential neighborhoods. (A-489 to A-496.)⁵ More recently, the City of St. Louis Park passed three resolutions regarding the proposed MN&S Freight Rail Project: (1) a July 6, 2010, resolution (No. 10-070) opposing the rerouting of freight rail traffic from the Kenilworth Corridor to St. Louis Park unless certain conditions were met (A-427 to A-428); (2) a July 6, 2010, resolution (No. 10-071) requesting that the HCRRA reanalyze potential routes for relocating TC&W freight rail traffic from the

⁵ This Court may take judicial notice of 1996 resolution of the City of St. Louis Park opposing the increase of freight rail traffic through the city. See, e.g., *In re Estate of Turner*, 391 N.W.2d at 771; *Halvorson*, 181 N.W.2d at 476 n.5.

Kenilworth Corridor (A-417); and (3) a May 31, 2011, resolution (No. 11-058) opposing the rerouting of freight rail traffic from the Kenilworth Corridor to St. Louis Park because the conditions established in City Council Resolution No. 10-070 had not been met (A-423 to A-425).

On June 30, 2011, MnDOT issued Findings of Fact and Conclusions setting forth its determination that the EAW complies with the procedures of and is adequate under MEPA, and that an EIS is not needed. (A-212 to A-321.) In this document, MnDOT responded to comments made by Relators and others. (A-279 to A-488, selected comment letters.) The adequacy of those responses is discussed in the Argument section below.

ARGUMENT

I. STANDARD OF REVIEW

MnDOT's determination that the EAW for MN&S Freight Rail Project is adequate under MEPA is subject to review on a petition for certiorari in this Court. Minn. Stat. § 116D.04, subd. 10 (2010), *as amended by* 2011 Minn. Laws, Ch. 4, § 8. (Add. 08.) This Court must reverse MnDOT's decision if the decision violates a constitutional provision, is in excess of MnDOT's statutory authority or jurisdiction, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in the administrative record, or is arbitrary and capricious. Minn. Stat. § 14.69. *See Citizens Advocating Responsible Dev. v. Kandiyohi County Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006) ("CARD") (applying Minnesota Administrative Procedure Act, Minn. Stat. § 14.69, standard of

review to MEPA). Contemporaneous written findings articulating the rationale for an adequacy determination under MEPA and submission of an administrative record that includes the documents relied upon in making that determination are necessary to prevent a “post hoc rationalization of a capricious decision.” *Concept Properties, LLP v. City of Minnetrista*, 694 N.W.2d 804, 827 (Minn. Ct. App. 2005).

This Court may also consider generally known information that is part of the public record and that the Court could refer to in the course of its own research. *In re Estate of Turner*, 391 N.W.2d 767, 771 (Minn. 1986). *See also Minn. Dep’t of Highways v. Halvorson*, 181 N.W.2d 473, 476 n.5 (Minn. 1970) (taking judicial notice of documents in the state’s public records); *Massachusetts v. EPA*, 124 S.Ct. 1438, 1458 n.22 (2007) (citing 2005 documents in reviewing a 2003 EPA administrative decision); Minn. R. Evid. 201 (court may take judicial notice of fact not subject to reasonable dispute that is either generally known within the territorial jurisdiction of the trial court or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned) (Add. 28 to Add. 29).

For this Court to uphold MnDOT’s decision regarding the EAW, MnDOT’s administrative record must contain substantial evidence supporting its decision that the EAW complies with MEPA. Substantial evidence is “such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.” *CARD*, 713 N.W.2d at 832; *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 825 (Minn. 1977). MnDOT’s adequacy decision is arbitrary and capricious if the Council failed to consider any important aspect of the MN&S Freight Rail Project or if the rationale for

MnDOT's decision runs counter to the evidence in the administrative record. *CARD*, 713 N.W.2d at 832. This Court must undertake an "independent examination of [the] administrative agency's record and decision" and arrive at the Court's "own conclusions as to the propriety of [MnDOT's] determination." *Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903, 907 (Minn. Ct. App. 1995) (quoting *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 824 (Minn. 1977)). In short, this Court's review of MnDOT's decision that the EAW is adequate must determine whether MnDOT took a "hard look" at the issues the MN&S Freight Rail Project raises and whether MnDOT "genuinely engaged in reasoned decision-making." *CARD*, 713 N.W.2d at 832.

II. THE MN&S FREIGHT RAIL PROJECT EAW VIOLATES MEPA BY FAILING TO CONSIDER THE SOUTHWEST CORRIDOR LIGHT RAIL TRANSIT PROJECT AS A CONNECTED ACTION AND A PHASED ACTION

MEPA requires that connected actions and phased actions be considered in total when preparing an EAW and determining the need for an EIS. The proposed MN&S Freight Rail Project and the SWLRT project are connected actions under MEPA because the HCRRA has concluded that the Kenilworth Corridor right-of-way, which the HCRRA is proposing to use for the SWLRT project, cannot accommodate both the proposed SWLRT project and the existing TC&W freight rail traffic. Similarly, the proposed MN&S Freight Rail Project and the SWLRT project are phased actions because HCRRA has proposed both projects, the projects have environmental effects in the same geographic area, and the two projects will be undertaken sequentially. The

EAW for the MN&S Freight Rail Project, however, does not discuss the SWLRT project as a connected action or a phased action and is therefore inadequate under MEPA.

A. THE MN&S FREIGHT RAIL PROJECT EAW IS INADEQUATE BECAUSE IT FAILS TO CONSIDER THE SWLRT PROJECT AS A CONNECTED ACTION

Under MEPA, connected actions must be considered in total in a single EAW. "Multiple projects and multiple stages of a single project that are connected actions . . . must be considered in total when . . . preparing the EAW, and determining the need for an EIS." Minn. R. 4410.1000, subp. 4 (Add. 26). The Minnesota Environmental Quality Board ("EQB") rules implementing MEPA state that "connected actions" are two "projects" that are "related in any" of the following ways:

- A. one project would directly induce the other;
- B. one project is a prerequisite for the other and the prerequisite project is not justified by itself; or
- C. neither project is justified by itself.

Minn. R. 4410.0200, subp. 9c. (Add. 14.) In its 1988 Statement of Need and Reasonableness ("SONAR") adding the "connected actions" definition, the EQB stated that the term "connected actions" is borrowed from the Federal Council on Environmental Quality regulations for implementing NEPA (at 40 CFR section 1508.25) which refers to multiple projects which are related in any of the three ways included in the definition." 1988 SONAR 3-4, Minn. R. 4410.0200, subp. 1b. According to the EQB, the MEPA "connected action" definition was added "in order to parallel the Federal regulations." 1988 SONAR at 4, Minn. R. 4410.0200, subp. 1b.

Critical to both the EQB definition of “connected actions” and the federal Council on Environmental Quality definition from which the EQB definition was derived is whether one action is “prerequisite” to, or cannot proceed without, the other. For example, where a timber sale could not proceed without construction of a logging road, construction of the road and sale of the timber are “connected” actions. *Thomas v. Peterson*, 752 F.2d 754, 758-59 (9th Cir. 1985) (construing NEPA). See also *Save the Yaak Committee v. Block*, 849 F.2d 714, 720 (9th Cir. 1988) (construing NEPA and holding that an environmental assessment must include an analysis of connected actions “even if the impact of the proposed action is not significant”); *Dune Citizens Against Ruining Our Environment v. Klein*, 747 F. Supp. 2d 1234, 1253-54 (D. Colo. 2010) (where one project would not have taken place without the other, projects lack “independent utility” and were connected actions under NEPA); *Sierra Club v. U.S. Dept. of Energy*, 255 F. Supp. 2d 1177, 1184-85 (D. Colo. 2002) (road and mine site were “connected actions” under NEPA because “[b]ut for the road, the mining company could not access the mine site; absent the mine, there is no independent utility for the access road.”); *Sierra Club v. Dombeck*, 161 F. Supp. 2d 1052, 1067 (D. Ariz. 2001) (development and water delivery systems were “connected actions” under NEPA because without a water delivery system the development could not be constructed and without the proposed construction the water delivery system would not be needed). In sum, where one project lays the groundwork for the next, the

projects are “connected actions” because they are interdependent. *Blue Ocean Pres. Soc’y v. Watkins*, 754 F. Supp. 1450, 1458-59 (D. Haw. 1991) (construing NEPA).⁶

Here, the MN&S Freight Rail Project and the SWLRT project are connected actions. The HCRRA, the project proposer for the MN&S Freight Rail Project and the SWLRT project, purchased the Kenilworth Corridor from the Chicago Northwestern Railroad decades ago to preserve the right-of-way for future light rail transit use. (A-87.) HCRRA allowed the TC&W temporary use of the Kenilworth Corridor right-of-way for freight rail “with the understanding that freight rail was only a temporary and [that TC&W] would vacate the corridor” when HCRRA proposed the SWLRT project. (A-507.) In the fall of 2009 HCRRA recommended as the SWLRT Locally Preferred Alternative (LPA) a route that would run alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis. See southwesttransitway.org. Also in the fall of 2009, HCRRA in the TC&W Freight Train Realignment Study concluded that the Kenilworth Corridor right-of-way could not accommodate both the proposed SWLRT and the existing TC&W freight rail lines. (A-509.) Accordingly, HCRRA recommended removing the TC&W trains from the Kenilworth Corridor and rerouting them north through St. Louis Park on the MN&S Spur to connect with the BNSF Wayzata Subdivision in the northern part of the City. (A-524.) This rerouting of the TC&W freight trains is the current proposed MN&S

⁶ MEPA is patterned after NEPA. As a result, Minnesota courts often rely upon federal case law decided under NEPA in construing MEPA provisions. See, e.g., *Minn. Center for Env’tl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 468 n.10 (Minn. 2002); *No Power Line*, 262 N.W.2d at 323 n.28 (Minn. 1977); *Minn. Pub. Interest Research Group v. Minn. Env’tl. Quality Council*, 237 N.W.2d 375, 380-81 (Minn. 1975).

Freight Rail Project addressed in the EAW. Because moving existing TC&W freight train operations off the Kenilworth Corridor is a prerequisite for going forward with the SWLRT project, the two projects are “connected actions” under MEPA. Minn. R. 4410.0200, subp. 9c (Add. 14). As a result, MEPA requires that the MN&S Freight Rail Project EAW consider the SWLRT in preparing the EAW and in determining the need for an environmental impact statement. Minn. R. 4410.1000, subp. 4.

The Federal Transit Administration (“FTA”) recently confirmed that the MN&S Freight Rail Project and the SWLRT project are connected actions under NEPA, and therefore under MEPA. In a September 2, 2011, letter to the Metropolitan Council, the FTA stated that environmental review of the SWLRT project must “[a]nalyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned Southwest LRT route,” because “the freight relocation is necessary . . . to implement the Southwest LRT project as planned.” (A-498.)⁷ In other words, FTA has expressly stated that the LPA for the SWLRT project requires relocation of TC&W freight rail operations in the Kenilworth Corridor, so the projects are “connected actions” under NEPA that must be evaluated in the environmental impact statement for SWLRT. Similarly, because the two projects are “connected actions,” MEPA requires that the MN&S Freight Rail Project EAW evaluate the impacts of the SWLRT project. Minn. R. 4410.1000, subp. 4. (Add. 26.)

⁷ This Court may take judicial notice of the FTA letter. *See, e.g., In re Estate of Turner*, 391 N.W.2d at 771; *Halvorson*, 181 N.W.2d at 476 n.5

Unfortunately, the MN&S Freight Rail Project EAW determined that the SWLRT was not a connected action and MnDOT failed to consider both actions in the EAW. MnDOT stated that it did not consider the MN&S Freight Rail Project and the SWLRT project to be connected actions under MEPA. Specifically, MnDOT stated that it would not respond to comments “received relative to studies outside the scope of the MN&S Freight Rail Study; including . . . the Southwest Light Rail Transit (LRT) Draft Environmental Impact Statement (Draft EIS).” (A-222.) Rather, MnDOT claimed that the SWLRT project was “evaluated in the cumulative effects section of the EAW document.” *Id.* But a cumulative effects analysis is distinct from and does not satisfy a connected action analysis. *See Thomas v. Peterson*, 753 F.2d at 759 (distinguishing between a “cumulative environmental effects” analysis and a “connected action” analysis). And the EAW discussion of “cumulative potential effects” is generic, includes a very general analysis of the cumulative effects of three projects—not just SWLRT, and does not identify which of those effects are associated with SWLRT. (A-160 to A-164.) In short, the MN&S Freight Rail Project EAW did not include the SWLRT project as a connected action in preparing the EAW and determining the need for an environmental impact statement. Minn. R. 4410.1000, subp. 4. As a result, the MN&S Freight Rail Project EAW does not comply with MEPA.

B. THE MN&S FREIGHT RAIL PROJECT EAW IS INADEQUATE BECAUSE IT FAILS TO CONSIDER THE SWLRT PROJECT AS A PHASED ACTION

Under MEPA, phased actions must be considered in total in a single EAW. "Multiple projects and multiple stages of a single project that are . . . phased actions must be considered in total when . . . preparing the EAW, and determining the need for an EIS." Minn. R. 4410.1000, subp. 4. (Add. 26.) The EQB rules implementing MEPA state that "phased actions" are two or more actions undertaken by the same project proposer that:

- A. will have environmental effects on the same geographic area; and
- B. are substantially certain to be undertaken sequentially over a limited period of time.

Minn. R. 4410.0200, subp. 60. (Add. 60.) In its 1982 Statement of Need and Reasonableness ("SONAR") discussing the "phased action" definition, the EQB noted that comments suggested that a "limited time period" should be "from three to ten years." 1982 SONAR 22, 6 MCAR § 3.022.B. The EQB decided it was most reasonable not to define a "specific period of time" under the rule and suggested that the rule language referencing a "limited period of time" would be decided on "a case-by-case basis." *Id.*

Here, the MN&S Freight Rail EAW does not comply with MEPA because it fails to consider the SWLRT project as a phased action. The HCRRA is the project proposer for both the MN&S Freight Rail Project and the SWLRT project, and purchased the Kenilworth Corridor from the Chicago Northwestern Railroad decades ago to preserve the right-of-way for future light rail transit use. (A-86 to A-87.) The

MN&S Freight Rail Project and the SWLRT project will have environmental effects in the same geographic area, as the MN&S Freight Rail Project EAW acknowledges. (A-162.) And relocation of MN&S freight rail operations will occur sequentially before the HCRRA may implement the SWLRT Locally Preferred Alternative (LPA), which runs alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis. (A-509, A-524.) But the MN&S Freight Rail Project EAW does not recognize the SWLRT project as a phase action and does not—as MEPA requires—consider the SWLRT project in preparing the EAW and in determining the need for an EIS. Minn. R. 4410.1000, subp. 4. (Add. 26.) As a result, the EAW for the MN&S Freight Rail Project is inadequate as a matter of law under MEPA.

III. THE MN&S FREIGHT RAIL PROJECT EAW ANALYSIS OF NOISE AND VIBRATION IMPACTS, AND OF MEASURES TO MITIGATE THOSE IMPACTS, IS INADEQUATE

Also falling short of the requirements of MEPA is the EAW's inaccurate noise and vibration analysis, as well as the minimal information provided regarding the adequacy of MnDOT's proposed measures to mitigate noise and vibration from the project. As a result, MnDOT's analysis and its discussion of measures to mitigate the project's adverse noise and vibration impacts are inadequate as a matter of law. Moreover, MnDOT ignored or summarily dismissed comments on the EAW regarding noise and vibration. Accordingly, in approving the project before preparing an adequate EAW, MnDOT acted arbitrarily and capriciously.

A. THE EAW ASSESSMENT OF THE PROJECT'S NOISE AND VIBRATION IMPACTS IS ARBITRARY AND CAPRICIOUS

MEPA requires RGUs such as MnDOT to consider the environmental effects of their actions before approving a proposed project. The very purpose of environmental review documents prepared under MEPA “is to determine the potential for significant environmental effects *before* they occur.” *Trout Unlimited*, 528 N.W.2d at 909 (emphasis original). An EAW cannot defer the analysis of environmental effects or mitigation measures. *Id.* Moreover, under MEPA MnDOT must be “a source of independent expertise whose scientific investigation can uncover the data necessary to make an informed environmental decision,” allowing it to undertake its “own impartial evaluation” of the CCLRT Project and its environmental impacts. *No Power Line v. Minn. Environ. Quality Bd.*, 262 N.W.2d 312, 327 (Minn. 1977). An EAW cannot serve as a document “used to justify a decision.” Minn. R. 4410.0300, subp. 3. (Add. 24.) Here, MnDOT’s analysis of the proposed project’s adverse effects from noise and vibration fails to comply with MEPA for two reasons: (1) MnDOT relied upon inaccurate information and omitted relevant data; and (2) MnDOT failed to respond to the substance of comments addressing the EAW’s flawed noise and vibration analysis.

1. MnDOT’s Analysis of the Project’s Noise and Vibration Impacts Relies Upon Inaccurate Information and Omits Relevant Data

As a threshold matter, MnDOT evidences a fundamental misapprehension of the proper method for evaluating environmental impacts under MEPA. According to MnDOT, existing noise and vibration conditions “are not relevant to the evaluation of

the impacts within the project area.” (A-230.) This statement is utterly inexplicable. By definition, an EAW’s evaluation of a proposed project’s impacts under MEPA requires an analysis of how a proposed project will affect existing environmental conditions in the project area. *See* Minn. R. 4410.0200, subp. 23 (defining the term “environment” as the comparison of the existing environmental condition in an area with the “physical conditions existing in the area that may be affected by a proposed project”) (Add. 15) and Minn. R. 4410.0200, subp. 65 (defining the term “project” as “a governmental action, the results of which would cause physical manipulation of the environment”) (Add. 65). MnDOT’s assertion that existing noise and vibration conditions in the City of St. Louis Park are irrelevant is wrong as a matter of law.

Second, the EAW did not include an accurate assessment of the project’s noise impacts. For example, the EAW noise analysis relies upon inaccurate assumptions with respect to train operations under the proposed project. The EAW noise assessment for the proposed project is based upon the “number of locomotives, the number of cars, the changes in speed,” and other operational factors. (A-244.) According to MnDOT, the “noise assessment took into account the number of locomotives under the Proposed Action . . . and cars for each train type” *Id.* In short, the noise analysis for the project in the EAW is completely dependent upon inaccurate assumptions regarding train length and operating time. But MnDOT acknowledged in its response to comments that the “assumptions on train length and operating times were provide[d] by the TC&W during the preparation of the EAW,” and the TC&W stated that the information it provided for the EAW was “incorrect.”

(A-230.) The EAW, for instance, omitted data for the Bass Line Spur/MN&S Spur connection, which is critical in determining existing noise levels and the net increase in noise levels from the project. (A-402.) Nevertheless, without any analysis or justification MnDOT asserts that the missing information does not change the EAW. (A-320.)

In light of MnDOT's acknowledgment that the underlying assumptions regarding noise are incorrect, the EAW does not include *any* accurate information regarding the project's noise impacts. To fully and fairly evaluate environmental impacts under MEPA, an RGU's analysis must be thorough rather than cursory. *Cf. Nat'l Parks & Conserv. Ass'n v. Bureau of Land Management*, 606 F.3d 1058, 1072-73 (9th Cir. 2010) (construing NEPA in holding that discussion of impacts must be full and fair); *Nat'l Audubon Soc'y v. Dep't of Navy*, 422 F.3d 174, 194 (4th Cir. 2005) (holding that under NEPA an "agency's hard look should include neither researching in a cursory manner nor sweeping negative evidence under the rug."). It is arbitrary and capricious for MnDOT to base its entire noise analysis on train length, operating times, and other information that MnDOT has acknowledged is incorrect.

The EAW also omitted relevant information regarding the proposed project's maximum noise levels. The noise descriptor "Lmax" is the maximum noise level that occurs during an event, such as a train pass-by, and is the noise level that is actually heard by persons during the pass-by. (A-402.) Under the proposed project, net Lmax will increase as a result of the 232.5 percent increase in freight traffic through the City of St. Louis Park. (A-410.) The increase will be particularly significant in residential

areas, which the EAW acknowledges make up almost 73 percent of the properties adjacent to the proposed project. *Id.* But the EAW does not consider Lmax and relies exclusively on the noise descriptor “Ldn.” (A-245.) Ldn is an average noise level over a 24-hour period; it does not measure noise that is actually heard by persons. According to MnDOT, Ldn has “replaced” Lmax. *Id.* In actuality, the Lmax and Ldn noise descriptors identify different noise measurements. MnDOT’s exclusive reliance upon the Ldn average and exclusion of Lmax—the noise level actually heard by individuals—fails to comply with MEPA’s requirement of using “high quality information and accurate scientific analysis.” *The Lands Council v. Powell*, 395 F.3d 1019, 1031-32 (9th Cir. 2005) (remanding NEPA environmental review document where Forest Service used methodology lacking relevant variables to accurately determine environmental effects). As such, MnDOT’s determination that the EAW satisfies MEPA is arbitrary and capricious.

In addition, the EAW’s assumptions in evaluating vibration are flawed. The EAW predicted vibration impacts from the proposed project based upon an analysis of two-train passages, both with two locomotives. The first train passage measured the vibration associated with 2 locomotives and 6 cars; the second measured vibration associated with 2 locomotives and 11 cars. (A-405.) In actuality, the project will involve freight rail trains with 2 to 4 locomotives and no fewer than 10—and as many as 30 thirty—cars. *Id.* Moreover, an independent vibration study demonstrated that vibrations within buildings on Lake Street as a result of the project would be at least 84VdB, which far exceeds federal guidelines for residential and business properties.

(A-406.) The independent study actually *underestimates* the project's vibration impacts by assuming that freight trains will completely pass a property within 24-seconds. *Id.* Under the proposed project, freight trains may travel past a property for more than 10 minutes. *Id.*

2. MnDOT's Failure to Respond to the Substance of Comments on the EAW's Noise and Vibration Impact Analysis Violates MEPA

MnDOT utterly fails to respond to the substance of comments on the EAW's noise and vibration analysis for the proposed project, rendering the EAW inadequate. To comply with MEPA, MnDOT must address the merits of the EAW comments. *Cf. Navajo Nation v. United States Forest Serv.*, 479 F.3d 1024, 1050-51 (9th Cir. 2007), *opinion adopted en banc*, 535 F.3d 1058 (9th Cir. 2008), *cert. den.*, 129 S.Ct. 2763 (2009) (construing NEPA and finding environmental review document inadequate where responses to comments lack reasonable discussion of issues); *Davis v. Mineta*, 302 F.3d 1104, 1122-26 (10th Cir. 2002) (NEPA environmental review document inadequate for failure to address substantive comments). Offering conclusory statements or simply repeating language in the EAW does not satisfy MnDOT's burden. *Silva v. Lynn*, 482 F.2d 1282, 1265 (1st Cir. 1973) (under NEPA, an environmental review document without "good faith, reasoned analysis in response" to comments is inadequate).

MnDOT does not respond to the merits of the EAW comments on noise and vibration issues. Rather, MnDOT acknowledges that the concerns expressed in the comments regarding noise and vibration are "qualitatively correct," but goes on to

assert that the EAW includes a thorough noise and vibration analysis. (A-229.) However, as discussed above, MnDOT failed to analyze whether and how the acknowledged errors in critical assumptions regarding train length operating times affected the EAW's noise and vibration analysis.

In addition, MnDOT utterly failed to include a substantive response to the independent vibration analysis establishing that the EAW underestimated the project's vibration impacts. After acknowledging that the independent vibration study established vibration levels in excess of those that the EAW evaluated, MnDOT stated that "[w]ithout additional details, it is difficult to determine why the independent vibration measures conducted were higher than those conducted during the [EAW] assessment." (A-248.) But MnDOT failed to identify the "additional details" that were missing in the independent vibration study. And all of the details with respect to the study—including the location of the measurements, the protocol that the independent consultant employed, the number of trains, train lengths, train speeds, distance of the line from the point where the measurements were taken, and related information—are included in MnDOT's administrative record. (A-371 to A-385.) Rather than respond to the merits of the independent consultant's vibration study, MnDOT offers speculation to distinguish what it deems to be unfavorable information. The failure to respond to the substance of the independent vibration study is a "danger signal[]" that suggests MnDOT "has not taken a hard look at the salient problems and has not genuinely engaged in reasoned decisionmaking." *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 824-25 (Minn. 1977) (citation omitted). Accordingly, MnDOT's failure

to address the substantive comments on the EAW regarding noise and vibration was arbitrary and capricious, and renders the EAW inadequate under MEPA. *Navajo Nation*, 479 F.3d at 1050-51; *Davis*, 302 F.3d at 1122-26; *Silva*, 482 F.2d at 1265.

In an attempt to justify its truncated vibration analysis and failure to respond to the merits of the comments on the EAW, MnDOT repeatedly states that the vibration assessment is for “human annoyance only” and does not establish that vibration levels from the project exceed property damage levels. (A-248.) But property damage alone is not the measure of an adequate environmental review analysis under MEPA. Rather, the statute requires an analysis of a project’s affects on the “environment,” including “the overall welfare and development of human beings.” Minn. Stat. § 116D.02, subd. 1 (Add. 01); Minn R. 4410.0200, subp. 23 (Add. 15). In suggesting that it need not evaluate the project’s “human annoyance,” MnDOT improperly circumscribes the scope of MEPA.

B. THE EAW DISCUSSION OF MEASURES TO MITIGATE NOISE AND VIBRATION FROM THE PROJECT FAILS TO SATISFY MEPA

To comply with MEPA, the EAW must contain a complete and detailed discussion of mitigation measures *before* MnDOT determines that the document is adequate and approves the Project. *Trout Unlimited, Inc. v. Minn. Dep’t of Ag.*, 528 N.W.2d 903, 909 (Minn. Ct. App. 1995). In addition, the mitigation discussion must be more than mere vague statements of good intentions. *CARD*, 713 N.W.2d at 834; *Nat’l Audubon Soc’y v. Minn. Pollution Control Agency*, 569 N.W.2d 211, 217 (Minn. Ct. App. 1997). *See also Audubon Soc’y of Central Ark. v. Dailey*, 977 F.2d 428, 435-

36 (8th Cir. 1992) (same, construing NEPA); *Robertson v. Methow Valley*, 490 U.S. 332, 352 (1989) (NEPA requires an environmental review document to include a “complete discussion of possible mitigation measures”); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372, 1380-81 (9th Cir. 1998) (under NEPA, an environmental review document must contain a detailed analysis of mitigation measures and their effectiveness, not “broad generalizations and vague references”); *Oregon Nat. Res. Council v. Harrell*, 52 F.3d 1499, 1507 (9th Cir. 1995) (untested mitigation or mitigation that is “continuing to be discussed” is inadequate under NEPA).

Here, the EAW includes only a perfunctory and conclusory discussion of mitigation measures to address the acknowledged adverse noise and vibration effects from the project. The EAW acknowledges that the concerns articulated in the comments regarding noise and vibration associated with the Project’s “greater grades and curvatures” are “qualitatively correct.” (A-229.) But rather than carefully considering the efficacy of appropriate measures to mitigate these effects, MnDOT simply concludes without analysis that the “noise and vibration evaluations commissioned by the proposers and consultant team” properly evaluated the impacts and suggested appropriate mitigation measures. (A-229.) In short, MnDOT’s administrative record lacks substantial evidence establishing that the measures proposed to mitigate noise and vibration will be effective. Rather than provide such information and analysis, MnDOT offers conclusory statements, broad generalizations, and vague references. In the absence of data establishing the efficacy

of the proposed mitigation measures, the EAW is inadequate as a matter of law. *Cuddy Mt.*, 137 F.3d at 1380-81; *High Sierra Hikers Ass'n v. Weingardt*, 521 F. Supp. 2d 1065, 1085-86 (N.D. Cal. 2007); *Wilderness Soc'y v. Bosworth*, 118 F. Supp. 2d 1082, 1106 (D. Mont. 2000); *Hall*, 693 F. Supp. at 939.

The EAW also acknowledges that measures to mitigation the MN&S Freight Rail Project's noise and vibration is dependant not upon the discussion in the EAW but upon the "final design configuration" of the Project. (A-229 to A-230.) According to MnDOT, "modifications are possible" before approval of the final project design. (A-230.) MnDOT also claims that noise and vibration mitigation will be addressed "to the satisfaction of all parties during the design review [for the Project], prior to construction." (A-229 to A-230.) But these acknowledgments simply confirm that the administrative record lacks substantial evidence to support the adequacy of MnDOT's conclusions regarding mitigation. Relying upon mitigation measures that are subject to additional development is inconsistent with MEPA's requirement that the MN&S Freight Rail Project EAW contain a full discussion of mitigation measures *before* MnDOT makes an adequacy determination. *Trout Unlimited*, 528 N.W.2d at 909; Minn. R. 4410.0300, supb. 3 (information must be made available "early in the decision making process") (Add. 24). *See also CARD*, 713 N.W.2d at 834 (to avoid preparing an EIS, mitigation measures relied upon in an EAW must be more than mere "vague statements of good intentions"); *Nat'l Audubon Soc'y*, 569 N.W.2d at 217 (Minn. Ct. App. 1997) (same). Quite simply, an EAW offering mitigation measures that are still continuing to be discussed does not comply with MEPA. *Trout*

Unlimited, 528 N.W.2d at 909. *See also Harrell*, 52 F.3d at 1507 (same, construing NEPA); *Friends of the Earth v. Hall*, 693 F. Supp. 904, 939-40 (W.D. Wash. 1988) (failure to adequately describe monitoring plan rendered environmental review document inadequate). MEPA does not allow MnDOT to salvage a deficient EAW by offering speculative statements concerning possible future mitigation. *Cuddy Mt.*, 137 F.3d at 1380-81.

Finally, although not explicitly stated in the EAW, MnDOT's inadequate analysis of noise and vibration mitigation—and its summary rejection of independent studies showing greater noise and vibration impacts than those described in the EAW—appears to be based upon the perceived cost of adequate mitigation. MEPA, however, prohibits MnDOT from truncating its mitigation analysis by “work[ing] backwards from the mitigation dollars [the project proposer] could afford.” *Env'tl. Defense Fund v. U.S. Army Corps of Eng'rs*, 515 F. Supp. 2d 69, 85 (D.D.C. 2007) (construing NEPA). HCRRA's unwillingness to implement appropriate mitigation measures for the MN&S Freight Rail Project based upon the cost of that mitigation, or upon a fear that such costs may adversely affect considerations for federal funding of the SWLRT Project, does not provide MnDOT with an excuse for an inadequate analysis of mitigation measures in the MN&S Freight Rail Project EAW.

IV. THE EAW ANALYSIS OF THE MN&S PROJECT'S SAFETY IMPACTS IS INADEQUATE

The MN&S Freight Rail EAW fails to adequately address the proposed project's safety impacts on residential areas in the City of St. Louis Park. In specific,

the EAW improperly relies upon residential backyards and green spaces for a safety buffer. MnDOT also arbitrarily and capriciously rejected a request to conduct a derailment study as part of the MN&S EAW.

The current MN&S Spur, which runs straight through the center of the City, was designed for light-tonnage slow-speed trains—10 to 30 car trains traveling at 10 mph or less. (A-95.) The MN&S Spur has been used for light-tonnage slow-speed trains since its inception. *Id.* The light-duty nature of the railroad has made possible a relatively safe coexistence with the vibrant mix of residential neighborhoods, businesses, schools and parks that has grown up around—and in very close proximity to—the MN&S Spur. Seventy-nine of the 105 City parcels adjacent to the railway are residential, many with backyards abutting the line and houses within 50 feet of the centerline of the tracks. (A-410.) There are also seven schools in the project area project (A-145), including St. Louis Park High School, which has athletic fields and a parking lot immediately adjacent to the tracks and whose students regularly cross the tracks to access restaurants and other businesses on the other side. (A-409.) The MN&S Spur intersects many of the City’s primary streets, and the majority of these intersections are simple at-grade crossings. (A-95.) Similarly, the MN&S Spur runs through many of the City’s parks and recreational areas, including Roxbury and Keystone parks, which abut the railway and are separated only by the tracks. (A-407.) Despite the lack of a formal trail crossing between the two parks, park users routinely cross the tracks—a trespass that is relatively risk-free with the current limited train traffic. *Id.* As a result of how closely the railroad and the City are intertwined in this

way, even the smallest physical and operational changes to the railway will have dramatic effects on the surrounding community.

Under the MN&S Freight Rail Project, freight traffic on the MN&S Spur through the City of St. Louis Park will increase by a minimum of 232.5 percent. (A-410.) Given the residential nature of the parcels adjacent to the MN&S Spur, the parcels are not properly buffered from the impacts of the MN&S Freight Rail Project. *Id.* And the administrative record lacks substantial evidence establishing that the EAW adequately considered the safety risks of increasing freight rail traffic by 232.5 percent through residential neighborhoods in the City of St. Louis Park. For example, in discussing safety risks, the EAW articulates the general railroad goal of “zero incidents” and states that “the distance of 50 feet has been used to assess the proximity of habitable, or dwelling, structures to the centerline of the tracks.” *Id.* But many residential parcels in the City are located within 50 feet of the MN&S Spur and the EAW does not analyze the proposed MN&S Freight Rail Project’s impact on the habitability of those parcels. *Id.* Rather, the EAW simply presumes that the proposed Project will use residential backyards and green spaces as a safety buffer. (A-411.) The EAW also omits any analysis of the safety risks imposed by the proposed Project’s numerous blind crossings and tight curves, and is utterly silent with respect to possible measures to mitigation such risks. *Id.* As a result, the EAW is inadequate as a matter of law. *Cf. Nat’l Parks & Conserv. Ass’n*, 606 F.3d at 1072-73 (construing NEPA); *Nat’l Audubon Soc’y v. Dep’t of Navy*, 422 F.3d at 194 (same).

In addition, the EAW ignores the proposed project's safety risks associated with Roxbury and Keystone parks. The parks abut the existing MN&S spur, are separated only by the tracks, and park users routinely cross the tracks to reach the parks. (A-407.) Crossing the tracks is now relatively risk-free but that will change when the proposed MN&S Freight Rail Project increases traffic volume on the tracks by 232.5 percent and train speed by up to 250 percent. Nevertheless, the EAW offers no specific mitigation to address the safety hazard that the proposed project will create in the vicinity of Roxbury and Keystone Parks. (A-410.)

The EAW also states, incorrectly, that there have been no derailments in the MN&S Spur area. (A-170.) In fact, the Federal Railroad Administration database notes that there have been a number of accidents in the area. (A-411.) These accidents occurred on the MN&S Spur *before* the proposed project's projected 232.5 percent increase in freight rail traffic. And MnDOT refused to undertake a derailment study of the proposed project—even in light of the numerous residential parcels located within 50 feet of the track centerline—because “[i]n the railway industry, a ‘Derailment Analysis’ or ‘Investigation’ is undertaken [only] *after* a derailment or similar incident has occurred.” (A-254.) (Emphasis added.) But under MEPA, MnDOT must evaluate the impacts of a proposed action—such as the safety risks of the MN&S Freight Rail Project—“early in the decision making process,” not after a disaster has occurred. Minn. R. 4410.0300, subp. 3 (Add. 24). *See also Trout Unlimited*, 528 N.W.2d at 909 (same); *Blue Mts. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998) (same, construing NEPA and citing *Marsh v. Oregon Natural Res. Council*, 490

U.S. 360, 371 (1989)); *Appalachian Mt. Club v. Brinegar*, 394 F. Supp. 105, 122 (D.N.H. 1975) (same, construing NEPA).

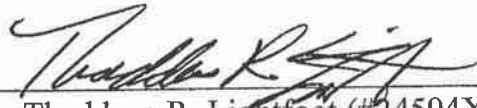
Finally, MnDOT draws its conclusions regarding the safety of crossings not based upon the proposed MN&S Freight Rail Project, but on current MN&S Spur operations. (A-411.) These conclusions are invalid because they do not account for the 232.5 percent increase in freight rail operations on the MN&S Spur that will occur as a result of the proposed project. MnDOT also suggests that the proposed project will have extensive use of Quiet Zones. (A-411.) But Quiet Zones pose significant safety risks for pedestrian traffic. In fact, Quiet Zones are 69 percent more likely to have pedestrian accidents than areas that do not impose Quiet Zones. *Id.* And there is substantial pedestrian traffic in the proposed project area, including the pedestrian crossings in Roxbury and Keystone Parks discussed above and pedestrian traffic associated with St. Louis Park High School. *Id.* MnDOT did not address these issues in the EAW and failed to respond to substantive comments on the EAW that raised these concerns. As a result, the EAW is inadequate under MEPA. *Navajo Nation*, 479 F.3d at 1050-51; *Davis*, 302 F.3d at 1122-26; *Silva*, 482 F.2d at 1265.

CONCLUSION

For the reasons set forth above, this Court hold that the MN&S Freight Rail Project EAW is inadequate under MEPA and remand this matter for preparation of an adequate EAW or an environmental impact statement.

Dated: December 2, 2011

THE ENVIRONMENTAL LAW GROUP, LTD.

By: 
Thaddeus R. Lightfoot (#24594X)
133 First Avenue North
Minneapolis, MN 55401
Tel: (612) 623-2363
Fax: (612) 378-3737

Attorneys for Relators Jami LaPray, et al.

**STATE OF MINNESOTA
IN COURT OF APPEALS**

Jami LaPray, et al.,

Relators,

v.

Minnesota Department of Transportation,

Respondent.

**CERTIFICATION OF
BRIEF LENGTH**

**APPELLATE CASES:
Nos. A11-1345, A-1386**

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01 for a brief produced with a proportional font. The length of this brief is 9,290 words. This brief was prepared using Microsoft Office Word 2007.

Dated: December 2, 2011

THE ENVIRONMENTAL LAW GROUP, LTD.

By: 

Thaddeus R. Lightfoot (#24594X)

133 First Avenue North

Minneapolis, MN 55401

Tel: (612) 623-2363

Fax: (612) 378-3737

Attorneys for Relators Jami LaPray, et al.

ADDENDUM

CHAPTER 116D

ENVIRONMENTAL POLICY

116D.01	PURPOSE.	116D.05	INACTIVE.
116D.02	DECLARATION OF STATE ENVIRONMENTAL POLICY.	116D.06	EFFECT OF EXISTING OBLIGATIONS.
116D.03	ACTION BY STATE AGENCIES.	116D.07	INACTIVE.
116D.04	ENVIRONMENTAL IMPACT STATEMENTS.	116D.10	ENERGY AND ENVIRONMENTAL STRATEGY REPORT.
116D.045	ENVIRONMENTAL IMPACT STATEMENTS; COSTS.	116D.11	REPORT PREPARATION.

116D.01 PURPOSE.

The purposes of Laws 1973, chapter 412, are: (a) to declare a state policy that will encourage productive and enjoyable harmony between human beings and their environment; (b) to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of human beings; and (c) to enrich the understanding of the ecological systems and natural resources important to the state and to the nation.

History: 1973 c 412 s 1; 1986 c 444

116D.02 DECLARATION OF STATE ENVIRONMENTAL POLICY.

Subdivision 1. Policy. The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high density urbanization, industrial expansion, resources exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of human beings, declares that it is the continuing policy of the state government, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which human beings and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.

Subd. 2. State responsibilities. In order to carry out the policy set forth in Laws 1973, chapter 412, it is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs and resources to the end that the state may:

- (1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
- (2) assure for all people of the state safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
- (3) discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;
- (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever practicable, an environment that supports diversity, and variety of individual choice;

(5) encourage, through education, a better understanding of natural resources management principles that will develop attitudes and styles of living that minimize environmental degradation;

(6) develop and implement land use and environmental policies, plans, and standards for the state as a whole and for major regions thereof through a coordinated program of planning and land use control;

(7) define, designate, and protect environmentally sensitive areas;

(8) establish and maintain statewide environmental information systems sufficient to gauge environmental conditions;

(9) practice thrift in the use of energy and maximize the use of energy efficient systems for the utilization of energy, and minimize the environmental impact from energy production and use;

(10) preserve important existing natural habitats of rare and endangered species of plants, wildlife, and fish, and provide for the wise use of our remaining areas of natural habitation, including necessary protective measures where appropriate;

(11) reduce wasteful practices which generate solid wastes;

(12) minimize wasteful and unnecessary depletion of nonrenewable resources;

(13) conserve natural resources and minimize environmental impact by encouraging extension of product lifetime, by reducing the number of unnecessary and wasteful materials practices, and by recycling materials to conserve both materials and energy;

(14) improve management of renewable resources in a manner compatible with environmental protection;

(15) provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection;

(16) reduce the deleterious impact on air and water quality from all sources, including the deleterious environmental impact due to operation of vehicles with internal combustion engines in urbanized areas;

(17) minimize noise, particularly in urban areas;

(18) prohibit, where appropriate, flood plain development in urban and rural areas; and

(19) encourage advanced waste treatment in abating water pollution.

History: 1973 c 412 s 2; 1986 c 444

116D.03 ACTION BY STATE AGENCIES.

Subdivision 1. **Requirement.** The legislature authorizes and directs that, to the fullest extent practicable the policies, rules and public laws of the state shall be interpreted and administered in accordance with the policies set forth in sections 116D.01 to 116D.06.

Subd. 2. **Duties.** All departments and agencies of the state government shall:

(1) on a continuous basis, seek to strengthen relationships between state, regional, local and federal-state environmental planning, development and management programs;

(2) utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental arts in planning and in decision making which may have an impact on the environment; as an aid in accomplishing this purpose there shall be established advisory councils or other forums for consultation with persons in appropriate fields

of specialization so as to ensure that the latest and most authoritative findings will be considered in administrative and regulatory decision making as quickly and as amply as possible;

(3) identify and develop methods and procedures that will ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration in decision making along with economic and technical considerations;

(4) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(5) recognize the worldwide and long range character of environmental problems and, where consistent with the policy of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize interstate, national and international cooperation in anticipating and preventing a decline in the quality of the world environment;

(6) make available to the federal government, counties, municipalities, institutions and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state as set forth in Laws 1973, chapter 412;

(7) initiate the gathering and utilization of ecological information in the planning and development of resource oriented projects; and

(8) undertake, contract for or fund such research as is needed in order to determine and clarify effects by known or suspected pollutants which may be detrimental to human health or to the environment, as well as to evaluate the feasibility, safety and environmental effects of various methods of dealing with pollutants.

History: 1973 c 412 s 3; 1985 c 248 s 70; 1986 c 444

116D.04 ENVIRONMENTAL IMPACT STATEMENTS.

Subdivision 1. [Repealed, 1980 c 447 s 10]

Subd. 1a. **Definitions.** For the purposes of this chapter, the following terms have the meanings given to them in this subdivision.

(a) "Natural resources" has the meaning given it in section 116B.02, subdivision 4.

(b) "Pollution, impairment or destruction" has the meaning given it in section 116B.02, subdivision 5.

(c) "Environmental assessment worksheet" means a brief document which is designed to set out the basic facts necessary to determine whether an environmental impact statement is required for a proposed action.

(d) "Governmental action" means activities, including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by units of government including the federal government.

(e) "Governmental unit" means any state agency and any general or special purpose unit of government in the state including, but not limited to, watershed districts organized under chapter 103D, counties, towns, cities, port authorities, housing authorities, and economic development authorities established under sections 469.090 to 469.108, but not including courts, school districts, Iron Range resources and rehabilitation, and regional development commissions other than the Metropolitan Council.

Subd. 2. [Repealed, 1980 c 447 s 10]

Subd. 2a. **When prepared.** Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action. No mandatory environmental impact statement may be required for an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), that produces less than 125,000,000 gallons of ethanol annually and is located outside of the seven-county metropolitan area.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section. A mandatory environmental assessment worksheet shall not be required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol facility as defined in section 41A.105, subdivision 1a, based on the capacity of the expanded or converted facility to produce alcohol fuel, but must be required if the ethanol plant meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant project for which an environmental assessment worksheet is prepared shall be the state agency with the greatest responsibility for supervising or approving the project as a whole.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30-day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15-day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 100 individuals who reside or own property in the state, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15-day period by not more than 15 additional days upon request of the responsible governmental unit.

(d) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

- (1) the proposed action is:
 - (i) an animal feedlot facility with a capacity of less than 1,000 animal units; or
 - (ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;
- (2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(f) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

(i) The proposer of a specific action may include in the information submitted to the responsible governmental unit a preliminary draft environmental impact statement under this

section on that action for review, modification, and determination of completeness and adequacy by the responsible governmental unit. A preliminary draft environmental impact statement prepared by the project proposer and submitted to the responsible governmental unit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the preliminary draft environmental impact statement. The responsible governmental unit shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the responsible governmental unit to perform its responsibility to review, modify, and determine the completeness and adequacy of the environmental impact statement.

Subd. 2b. Project prerequisites. If an environmental assessment worksheet or an environmental impact statement is required for a governmental action under subdivision 2a, a project may not be started and a final governmental decision may not be made to grant a permit, approve a project, or begin a project, until:

- (1) a petition for an environmental assessment worksheet is dismissed;
- (2) a negative declaration has been issued on the need for an environmental impact statement;
- (3) the environmental impact statement has been determined adequate; or
- (4) a variance has been granted from making an environmental impact statement by the environmental quality board.

Subd. 3. [Repealed, 1980 c 447 s 10]

Subd. 3a. Final decisions. Within 30 days after final approval of an environmental impact statement, final decisions shall be made by the appropriate governmental units on those permits which were identified as required and for which information was developed concurrently with the preparation of the environmental impact statement. Provided, however, that the 30-day period may be extended where a longer period is permitted by section 15.99 or required by federal law or state statute or is consented to by the permit applicant. The permit decision shall include the reasons for the decision, including any conditions under which the permit is issued, together with a final order granting or denying the permit.

Subd. 4. [Repealed, 1980 c 447 s 10]

Subd. 4a. Alternative review. The board shall by rule identify alternative forms of environmental review which will address the same issues and utilize similar procedures as an environmental impact statement in a more timely or more efficient manner to be utilized in lieu of an environmental impact statement.

Subd. 5. [Repealed, 1980 c 447 s 10]

Subd. 5a. Rules. The board shall, by January 1, 1981, promulgate rules in conformity with this chapter and the provisions of chapter 15, establishing:

- (1) the governmental unit which shall be responsible for environmental review of a proposed action;
- (2) the form and content of environmental assessment worksheets;
- (3) a scoping process in conformance with subdivision 2a, clause (e);

(4) a procedure for identifying during the scoping process the permits necessary for a proposed action and a process for coordinating review of appropriate permits with the preparation of the environmental impact statement;

(5) a standard format for environmental impact statements;

(6) standards for determining the alternatives to be discussed in an environmental impact statement;

(7) alternative forms of environmental review which are acceptable pursuant to subdivision 4a;

(8) a model ordinance which may be adopted and implemented by local governmental units in lieu of the environmental impact statement process required by this section, providing for an alternative form of environmental review where an action does not require a state agency permit and is consistent with an applicable comprehensive plan. The model ordinance shall provide for adequate consideration of appropriate alternatives, and shall ensure that decisions are made in accordance with the policies and purposes of Laws 1980, chapter 447;

(9) procedures to reduce paperwork and delay through intergovernmental cooperation and the elimination of unnecessary duplication of environmental reviews;

(10) procedures for expediting the selection of consultants by the governmental unit responsible for the preparation of an environmental impact statement; and

(11) any additional rules which are reasonably necessary to carry out the requirements of this section.

Subd. 6. Prohibitions. No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.

Subd. 6a. Comments. Prior to the preparation of a final environmental impact statement, the governmental unit responsible for the statement shall consult with and request the comments of every governmental office which has jurisdiction by law or special expertise with respect to any environmental effect involved. Copies of the drafts of such statements and the comments and views of the appropriate offices shall be made available to the public. The final detailed environmental impact statement and the comments received thereon shall precede final decisions on the proposed action and shall accompany the proposal through an administrative review process.

Subd. 7. Required consideration. Regardless of whether a detailed written environmental impact statement is required by the board to accompany an application for a permit for natural resources management and development, or a recommendation, project, or program for action, officials responsible for issuance of aforementioned permits or for other activities described herein shall give due consideration to the provisions of Laws 1973, chapter 412, as set forth in section 116D.03, in the execution of their duties.

Subd. 8. Early notice. In order to facilitate coordination of environmental decision making

and the timely review of agency decisions, the board shall establish by rule a procedure for early notice to the board and the public of natural resource management and development permit applications and other impending state actions having significant environmental effects.

Subd. 9. Modification before final decision. Prior to the final decision upon any state project or action significantly affecting the environment or for which an environmental impact statement is required, or within ten days thereafter, the board may delay implementation of the action or project by notice to the agency or department and to interested parties. Thereafter, within 45 days of such notice, the board may reverse or modify the decisions or proposal where it finds, upon notice and hearing, that the action or project is inconsistent with the policy and standards of sections 116D.01 to 116D.06. Any aggrieved party may seek judicial review pursuant to chapter 14.

Subd. 10. Review. A person aggrieved by a final decision on the need for an environmental assessment worksheet, the need for an environmental impact statement, or the adequacy of an environmental impact statement is entitled to judicial review of the decision under sections 14.63 to 14.68. A petition for a writ of certiorari by an aggrieved person for judicial review under sections 14.63 to 14.68 must be filed with the Court of Appeals and served on the responsible governmental unit not more than 30 days after the party receives the final decision and order of the responsible governmental unit. Proceedings for review under this section must be instituted by serving a petition for a writ of certiorari personally or by certified mail upon the responsible governmental unit and by promptly filing the proof of service in the Office of the Clerk of the Appellate Courts and the matter will proceed in the manner provided by the Rules of Civil Appellate Procedure. A copy of the petition must be provided to the attorney general at the time of service. Copies of the writ must be served, personally or by certified mail, upon the responsible governmental unit and the project proposer. The filing of the writ of certiorari does not stay the enforcement of any other governmental action, provided that the responsible governmental unit may stay enforcement or the Court of Appeals may order a stay upon terms it deems proper. A bond may be required under section 562.02 unless at the time of hearing on the application for the bond the petitioner-relator has shown that the claim is likely to succeed on the merits. The board may initiate judicial review of decisions referred to herein and the board or a project proposer may intervene as of right in any proceeding brought under this subdivision.

Subd. 11. Failure to act. If the board or governmental unit which is required to act within a time period specified in this section fails to so act, any person may seek an order of the district court requiring the board or governmental unit to immediately take the action mandated by subdivisions 2a and 3a.

Subd. 12. Impact analysis; large electric power facilities. No attempt need be made to tabulate, analyze or otherwise evaluate the potential impact of elections made pursuant to section 216E.12, subdivision 4, in environmental impact statements done for large electric power facilities. It is sufficient for purposes of this chapter that such statements note the existence of section 216E.12, subdivision 4.

Subd. 13. Enforcement. This section may be enforced by injunction, action to compel performance, or other appropriate action in the district court of the county where the violation takes place. Upon the request of the board or the chair of the board, the attorney general may bring an action under this subdivision.

Subd. 14. Customized environmental assessment worksheet forms; electronic

submission. (a) The commissioners of natural resources and the Pollution Control Agency and the board shall periodically review mandatory environmental assessment worksheet categories under rules adopted under this section, and other project types that are frequently subject to environmental review, and develop customized environmental assessment worksheet forms for the category or project type. The forms must include specific questions that focus on key environmental issues for the category or project type. In assessing categories and project types and developing forms, the board shall seek the input of governmental units that are frequently responsible for the preparation of a worksheet for the particular category or project type. The commissioners and the board shall also seek input from the general public on the development of customized forms. The commissioners and board shall make the customized forms available online.

(b) The commissioners of natural resources and the Pollution Control Agency shall allow for the electronic submission of environmental assessment worksheets and permits.

History: 1973 c 412 s 4; 1975 c 204 s 74; 1975 c 271 s 6; 1980 c 447 s 1-8; 1980 c 614 s 88; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 399 art 2 s 1; 1986 c 400 s 1; 1986 c 444; 1Sp1986 c 3 art 2 s 41; 1988 c 501 s 3,4; 1989 c 209 art 2 s 1; 1990 c 391 art 8 s 27; 1992 c 464 art 2 s 1; 2003 c 128 art 3 s 40; 2004 c 217 s 1; 2010 c 361 art 4 s 65,66; 2011 c 4 s 5-8; 2011 c 107 s 87

116D.045 ENVIRONMENTAL IMPACT STATEMENTS; COSTS.

Subdivision 1. **Assessment.** The board shall by rule adopt procedures to assess the proposer of a specific action for reasonable costs of preparing, reviewing, and distributing the environmental impact statement. The costs shall be determined by the responsible governmental unit pursuant to the rules promulgated by the board.

Subd. 2. **Modification.** In the event of a disagreement between the proposer of the action and the responsible governmental unit over the cost of an environmental impact statement, the responsible governmental unit shall consult with the board, which may modify the cost or determine that the cost assessed by the responsible governmental unit is reasonable.

Subd. 3. **Use of assessment.** As necessary, the responsible governmental unit shall assess the project proposer for reasonable costs that the responsible governmental unit incurs in preparing, reviewing, and distributing the environmental impact statement and the proposer shall pay the assessed cost to the responsible governmental unit. Money received under this subdivision by a responsible governmental unit may be retained by the unit for the same purposes. Money received by a state agency must be credited to a special account and is appropriated to the agency to cover the assessed costs incurred.

Subd. 4. **Partial cost to be paid.** No responsible governmental unit shall commence the preparation of an environmental impact statement until at least one-half of the assessed cost of the environmental impact statement is paid pursuant to subdivision 3. Other laws notwithstanding, no state agency may issue any permits for the construction or operation of a project for which an environmental impact statement is prepared until the assessed cost for the environmental impact statement has been paid in full.

Subd. 5. [Repealed, 1988 c 501 s 9]

History: 1976 c 344 s 3; 1988 c 501 s 5-8; 1990 c 594 art 1 s 55; 2011 c 4 s 9,10

116D.05 [Repealed, 1984 c 655 art 1 s 20]

116D.06 EFFECT OF EXISTING OBLIGATIONS.

Subdivision 1. **Specific statutory obligations.** Nothing in sections 116D.03 to 116D.045 shall in any way affect the specific statutory obligations of any state agency to (1) comply with criteria or standards of environmental quality, (2) coordinate or consult with any federal or state agency, or (3) act or refrain from acting contingent upon the recommendations or certification of any other state agency or federal agency.

Subd. 2. **Supplementary.** The policies and goals set forth in sections 116D.01 to 116D.06 are supplementary to those set forth in existing authorizations of state agencies.

History: 1973 c 412 s 6; 1984 c 655 art 1 s 21

116D.07 [Repealed, 1991 c 303 s 9]

116D.10 ENERGY AND ENVIRONMENTAL STRATEGY REPORT.

On or before January 1 of each even-numbered year, the governor shall transmit to the energy and environment and natural resources committees of the legislature a concise, comprehensive written report on the energy and environmental strategy of the state.

The report must be sufficiently comprehensive to assist the legislature in allocating funds to support all of the policies, plans, and programs of the state related to energy and the environment, and specifically must include:

(1) a concise, comprehensive discussion of state, and, as applicable, national and global energy and environmental problems, including but not limited to: indoor and outdoor air pollution, water pollution, atmospheric changes, stratospheric ozone depletion, damage to terrestrial systems, deforestation, regulation of pesticides and toxic substances, solid and hazardous waste management, ecosystem protection (wetlands, estuaries, groundwater, Lake Superior and the inland lakes and rivers), population growth, preservation of animal and plant species, soil erosion, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources;

(2) a concise, comprehensive description and assessment of the policies and programs of all departments and agencies of the state responsible for issues listed in clause (1), including a concise discussion of the long-term objectives of such policies and programs; existing and proposed funding levels; the impact of each policy and program on pollution prevention, emergency preparedness and response, risk assessment, land management, technology transfer, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources; and the impact of each on relations with the other states, the federal government, membership in national organizations, and funding of programs for state environmental protection and energy issues;

(3) a concise description and assessment of the integration and coordination of policies, plans, environmental programs, and energy programs of the state with the policies and programs of the federal government, the environmental and energy policies and programs of the other states, and the environmental and energy policies and programs of major state and national nonprofit conservation organizations;

(4) a concise description and assessment of all efforts by the state to integrate effectively its energy and environmental strategy with:

(i) the science and technology strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all environmental and energy research

and development supported by the federal government and of all efforts at regional, national, and international cooperation on environmental and energy research and development;

(ii) the national energy policies of the federal government, including objectives, priorities, timing, funding details, and expected results of all efforts supported by the federal government aimed at reducing energy demand, improving energy efficiency and conservation, fuel-switching, using safe nuclear power reactors, employing clean coal technology, promoting renewable energy sources, promoting research and possible use of alternative fuels, promoting biomass research, promoting energy research and development in general, and advancing regional, national, and international energy cooperation;

(iii) the national environmental education strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all domestic and international education efforts supported by the United States to improve both public participation and awareness of the need for environmental protection;

(iv) the technology transfer strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all domestic and international environmental and energy technology transfer efforts to foster collaboration and cooperation between federal agencies and state and local governments, universities, nonprofit conservation organizations, and private industry in order to improve the competitiveness of the state and the nation in the world marketplace and promote environmental and energy technology advancement; and

(v) the national security strategy of the federal government, including objectives, priorities, timing, funding, and expected results of the national security programs to be most compatible with requirements for environmental preservation and a national energy policy, while accomplishing missions essential to national security;

(5) a concise assessment of the overall effectiveness of the energy and environmental strategy of the state, including a concise description of the organizational processes used to provide a body of energy and environmental information and to evaluate the results of energy and environmental programs; the use of statistical methods; the degree to which the strategy is long term, comprehensive, integrated, flexible, and oriented toward achieving broad consensus in the state, the nation, and abroad; and recommendations on the ways in which the legislature can assist the governor in making the strategy more effective;

(6) specific two-year, five-year and, as appropriate, longer-term goals for the implementation of the energy and environmental strategy of the state; and

(7) such other pertinent information as may be necessary to provide information to the legislature on matters relating to the overall energy and environmental strategy of the state and to develop state programs coordinated with those formulated on a national and international level.

History: 1991 c 303 s 6

116D.11 REPORT PREPARATION.

Subdivision 1. Agency responsibility. Each department or agency of the state, as designated by the governor, shall assist in the preparation of the strategy report. Each designated department or agency shall prepare a preliminary strategy report relating to those programs or policies over which the department or agency has jurisdiction. Each preliminary strategy report shall:

- (1) describe concisely the existing policies and programs of the department or agency as they relate to the issues listed in section 116D.10, clause (1);
- (2) describe concisely and evaluate the long-term objectives of the department or agency as they relate to the issues listed in section 116D.10, clause (1);
- (3) identify and make proposals about the development of department or agency financial management budgets as they relate to the issues listed in section 116D.10, clause (1);
- (4) describe concisely the strategy and procedure of the department or agency to recruit, select, and train personnel to carry out department or agency goals and functions as they relate to the issues listed in section 116D.10, clause (1);
- (5) identify and make proposals to eliminate duplicative and unnecessary programs or systems, including encouraging departments and agencies to share systems or programs that have sufficient capacity to perform the functions needed as they relate to the issues listed in section 116D.10, clause (1); and
- (6) establish two-year quantitative goals for policy implementation.

Subd. 2. Primary responsibility. The Environmental Quality Board shall have the primary responsibility for preparing the energy and environmental strategy report of the state, as required by section 116D.10. The board shall assemble all preliminary reports prepared pursuant to subdivision 1 under a timetable established by the board and shall use the preliminary reports in the preparation of the draft energy and environmental strategy report of the state. Each department or agency designated by the governor to prepare a preliminary strategy report shall submit a copy of the preliminary strategy report to the governor and to the board at the same time.

Subd. 3. Report to governor. On or before October 1 of each odd-numbered year, the Environmental Quality Board shall transmit to the governor a draft of the written report on the energy and environmental strategy of the state. The governor may change the report and may request additional information or data from any department or agency of the state responsible for issues listed in section 116D.10, clause (1). Any such requested additional information or data shall be prepared and submitted promptly to the governor.

Subd. 4. [Repealed, 1997 c 7 art 2 s 67]

History: 1991 c 303 s 7

4410.0200 DEFINITIONS AND ABBREVIATIONS.

Subpart 1. **Scope.** For the purpose of parts 4410.0200 to 4410.6500, the following terms and abbreviations have the meanings given them, unless otherwise provided.

Subp. 1a. [Repealed, 31 SR 539]

Subp. 2. **Agricultural land.** "Agricultural land" means land that is or has, within the last five years, been devoted to the production of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. Wetlands, naturally vegetated lands, and woodlands contiguous to or surrounded by agricultural land shall be considered agricultural lands if under the same ownership or management as that of the agricultural land during the period of agricultural use.

Subp. 3. **Animal units.** "Animal units" has the meaning given in part 7020.0300, subpart 5.

Subp. 4. **Approval.** "Approval" means a decision by a unit of government to issue a permit or to otherwise authorize the commencement of a proposed project.

Subp. 5. **Attached units.** "Attached units" means in groups of four or more units each of which shares one or more common walls with another unit.

Subp. 6. **Biomass sources.** "Biomass sources" means animal waste and all forms of vegetation, natural or cultivated.

Subp. 6a. **Capacity.** "Capacity," as used in parts 4410.4300, subpart 17, and 4410.4400, subpart 13, means the maximum daily operational input volume a facility is designed to process on a continuing basis.

Subp. 7. **Class I dam.** "Class I dam" has the meaning given in part 6115.0340.

Subp. 8. **Class II dam.** "Class II dam" has the meaning given in part 6115.0340.

Subp. 9. **Collector roadway.** "Collector roadway" means a road that provides access to minor arterial roadways from local streets and adjacent land uses.

Subp. 9a. **Common open space.** "Common open space" means a portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. Common open space does not include the area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings when the development is designed using clustered compact lots or clustered units or sites to create and preserve green space, such as in a conservation subdivision, planned unit development, or resort.

Subp. 9b. **Compost facility.** "Compost facility" means a facility used to compost or co-compost solid waste, including:

A. structures and processing equipment used to control drainage or collect and treat leachate; and

B. storage areas for incoming waste, the final product, and residuals resulting from the composting process.

Subp. 9c. **Connected actions.** Two projects are "connected actions" if a responsible governmental unit determines they are related in any of the following ways:

A. one project would directly induce the other;

B. one project is a prerequisite for the other and the prerequisite project is not justified by itself; or

C. neither project is justified by itself.

Subp. 10. **Construction.** "Construction" means any activity that directly alters the environment. It includes preparation of land or fabrication of facilities. It does not include surveying or mapping.

Subp. 11. **Cumulative impact.** "Cumulative impact" means the impact on the environment that results from incremental effects of the project in addition to other past, present, and reasonably foreseeable future projects regardless of what person undertakes the other projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Subp. 11a. **Cumulative potential effects.** "Cumulative potential effects" means the effect on the environment that results from the incremental effects of a project in addition to other projects in the environmentally relevant area that might reasonably be expected to affect the same environmental resources, including future projects actually planned or for which a basis of expectation has been laid, regardless of what person undertakes the other projects or what jurisdictions have authority over the projects. Significant cumulative potential effects can result from individually minor projects taking place over a period of time. In analyzing the contributions of past projects to cumulative potential effects, it is sufficient to consider the current aggregate effects of past actions. It is not required to list or analyze the impacts of individual past actions, unless such information is necessary to describe the cumulative potential effects. In determining if a basis of expectation has been laid for a project, an RGU must determine whether a project is reasonably likely to occur and, if so, whether sufficiently detailed information is available about the project to contribute to the understanding of cumulative potential effects. In making these determinations, the RGU must consider: whether any applications for permits have been filed with any units of government; whether detailed plans and specifications have been prepared for the project; whether future development is indicated by adopted

comprehensive plans or zoning or other ordinances; whether future development is indicated by historic or forecasted trends; and any other factors determined to be relevant by the RGU.

Subp. 12. **Day.** "Day" in counting any period of time shall not include the day of the event from which the designated period of time begins. The last day of the period counted shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is 15 days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the counting of days.

Subp. 13. [Repealed by amendment, L 1983 c 289 s 115 subd 1]

Subp. 14. **Disposal facility.** "Disposal facility" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 10.

Subp. 15. **DNR.** "DNR" means Department of Natural Resources.

Subp. 16. **DOT.** "DOT" means Department of Transportation.

Subp. 17. **EAW.** "EAW" means environmental assessment worksheet.

Subp. 18. **EIS.** "EIS" means environmental impact statement.

Subp. 19. [Repealed, 21 SR 1458]

Subp. 20. [Repealed, 21 SR 1458]

Subp. 21. [Repealed, 21 SR 1458]

Subp. 22. **Emergency.** "Emergency" means a sudden unexpected occurrence, natural or caused by humans, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes fire, flood, windstorm, riot, accident, or sabotage.

Subp. 22a. **Energy recovery facility.** "Energy recovery facility" means a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting the solid waste into an intermediate fuel product. It does not include facilities that produce, but do not burn, refuse-derived fuel.

Subp. 23. **Environment.** "Environment" means physical conditions existing in the area that may be affected by a proposed project. It includes land, air, water, minerals, flora, fauna, ambient noise, energy resources, and artifacts or natural features of historic, geologic, or aesthetic significance.

Subp. 24. **Environmental assessment worksheet.** "Environmental assessment worksheet" means a brief document which is designed to set out the basic facts necessary

to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.

Subp. 25. **Environmental document.** "Environmental document" means EAW, draft EIS, final EIS, substitute review document, and other environmental analysis documents.

Subp. 26. **Environmental impact statement.** "Environmental impact statement" means a detailed written statement as required by Minnesota Statutes, section 116D.04, subdivision 2a.

Subp. 27. **EQB.** "EQB" means Environmental Quality Board.

Subp. 28. **Expansion.** "Expansion" means an extension of the capability of a facility to produce or operate beyond its existing capacity. It excludes repairs or renovations that do not increase the capacity of the facility.

Subp. 29. **First class city.** "First class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 30. **Floodplain.** "Floodplain" has the meaning given in Minnesota Statutes, section 103F.111.

Subp. 31. [Repealed, 21 SR 1458]

Subp. 32. **Fourth class city.** "Fourth class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 33. **Governmental action.** "Governmental action" means activities including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by governmental units, including the federal government.

Subp. 34. **Governmental unit.** "Governmental unit" means any state agency and any general or special purpose unit of government in the state, including watershed districts organized under Minnesota Statutes, chapter 103D, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council, but not including courts, school districts, and regional development commissions.

Subp. 35. **Gross floor space.** "Gross floor space" means the total square footage of all floors but does not include parking lots or approach areas.

Subp. 35a. **Genetically engineered organism.** "Genetically engineered organism" has the meaning given in part 4420.0010, subpart 14.

Subp. 35b. **Genetic engineering.** "Genetic engineering" has the meaning given in part 4420.0010, subpart 15.

Subp. 36. **Ground area.** "Ground area" means the total surface area of land that would be converted to an impervious surface by the proposed project. It includes

structures, parking lots, approaches, service facilities, appurtenant structures, and recreational facilities.

Subp. 37. **Hazardous waste.** "Hazardous waste" has the meaning given in parts 7045.0129 to 7045.0141.

Subp. 38. **High voltage transmission line.** "High voltage transmission line" has the meaning given in part 7849.1100.

Subp. 39. **Highway safety improvement project.** "Highway safety improvement project" means a project designed to improve safety of highway locations that have been identified as hazardous or potentially hazardous. Projects in this category include the removal, relocation, remodeling, or shielding of roadside hazards; installation or replacement of traffic signals; and the geometric correction of identified high accident locations requiring the acquisition of minimal amounts of right-of-way.

Subp. 40. **HVTL.** "HVTL" means high voltage transmission line.

Subp. 40a. **Incinerator.** "Incinerator" means any furnace used in the process of burning solid waste for the purpose of reducing the volume of waste by removing combustible matter.

Subp. 41. **Large electric power generating plant; LEPP.** "Large electric power generating plant" or "LEPP" has the meaning given in part 7849.1100.

Subp. 42. **LEPP.** "LEPP" means large electric power generating plant.

Subp. 42a. **Light industrial facility.** "Light industrial facility" means a subcategory of industrial land use with a primary function other than manufacturing and less than 500 employees.

Subp. 43. **Local governmental unit.** "Local governmental unit" means any unit of government other than the state or a state agency or the federal government or a federal agency. It includes watershed districts established pursuant to Minnesota Statutes, chapter 103D, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council. It does not include courts, school districts, and regional development commissions.

Subp. 44. **Marina.** "Marina" has the meaning given in part 6115.0170.

Subp. 45. **MDA.** "MDA" means Minnesota Department of Agriculture.

Subp. 46. **MDH.** "MDH" means Minnesota Department of Health.

Subp. 47. **Mineral deposit evaluation.** "Mineral deposit evaluation" has the meaning given in Minnesota Statutes, section 103I.605, subdivision 2.

Subp. 48. **Minnesota River Project Riverbend area.** "Minnesota River Project Riverbend area" means an area subject to the comprehensive land use plan of the Project Riverbend Board established under Minnesota Statutes, chapter 103F.

Subp. 49. **Mississippi headwaters area.** "Mississippi headwaters area" means an area subject to the comprehensive land use plan of the Mississippi River Headwaters Board established under Minnesota Statutes, chapter 103F.

Subp. 50. **Mississippi headwaters plan.** "Mississippi headwaters plan" means the comprehensive land use plan of the Mississippi River Headwaters Board established under Minnesota Statutes, chapter 103F.

Subp. 51. **Mitigation.** "Mitigation" means:

A. avoiding impacts altogether by not undertaking a certain project or parts of a project;

B. minimizing impacts by limiting the degree of magnitude of a project;

C. rectifying impacts by repairing, rehabilitating, or restoring the affected environment;

D. reducing or eliminating impacts over time by preservation and maintenance operations during the life of the project;

E. compensating for impacts by replacing or providing substitute resources or environments; or

F. reducing or avoiding impacts by implementation of pollution prevention measures.

Subp. 52. **Mixed municipal solid waste.** "Mixed municipal solid waste" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 21.

Subp. 53. **Natural watercourse.** "Natural watercourse" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 13.

Subp. 54. **Negative declaration.** "Negative declaration" means a written statement by the RGU that a proposed project does not require the preparation of an EIS.

Subp. 55. **Open space land use.** "Open space land use" means a use particularly oriented to and using the outdoor character of an area including agriculture, campgrounds, parks, and recreation areas.

Subp. 55a. **Ordinary high water level.** "Ordinary high water level" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 14.

Subp. 55b. **Organism.** "Organism" has the meaning given in part 4420.0010, subpart 18.

Subp. 56. **PCA.** "PCA" means Minnesota Pollution Control Agency.

Subp. 56a. **PCB.** "PCB" has the meaning given in Minnesota Statutes, section 116.36, subdivision 4.

Subp. 57. **Permanent conversion.** "Permanent conversion" means a change in use of agricultural, naturally vegetated, or forest lands that impairs the ability to convert the land back to its agricultural, natural, or forest capacity in the future. It does not include changes in management practices, such as conversion to parklands, open space, or natural areas.

Subp. 58. **Permit.** "Permit" means a permit, lease, license, certificate, or other entitlement for use or permission to act that may be granted or issued by a governmental unit, or the commitment to issue or the issuance of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, by a governmental unit.

Subp. 59. **Person.** "Person" means any natural person, state, municipality, or other governmental unit, political subdivision, other agency or instrumentality, or public or private corporation, partnership, firm, association, or other organization, receiver, trustee, assignee, agent, or other legal representative of the foregoing, and any other entity.

Subp. 60. **Phased action.** "Phased action" means two or more projects to be undertaken by the same proposer that a RGU determines:

A. will have environmental effects on the same geographic area; and

B. are substantially certain to be undertaken sequentially over a limited period of time.

Subp. 61. **Positive declaration.** "Positive declaration" means a written statement by the RGU that a proposed project requires the preparation of an EIS.

Subp. 62. **Potentially permanent.** "Potentially permanent" means a dwelling for human habitation that is permanently affixed to the ground or commonly used as a place of residence. It includes houses, seasonal and year round cabins, and mobile homes.

Subp. 63. **Preparation notice.** "Preparation notice" means a written notice issued by the RGU stating that an EIS will be prepared for a proposed project.

Subp. 64. **Processing.** "Processing," as used in parts 4410.4300, subpart 16, items B and C, and 4410.4400, subpart 12, item C, has the meaning given in Minnesota Statutes, section 115A.03, subdivision 25.

Subp. 65. **Project.** "Project" means a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.

Subp. 66. [Repealed, 13 SR 1437]

Subp. 67. **Project Riverbend Plan.** "Project Riverbend Plan" means the comprehensive land use plan of the Project Riverbend Board established under Minnesota Statutes, chapter 103F.

Subp. 68. **Proposer.** "Proposer" means the person or governmental unit that proposes to undertake or to direct others to undertake a project.

Subp. 69. **Public waters.** "Public waters" has the meaning given in Minnesota Statutes, section 103G.005.

Subp. 70. **Public waters wetland.** "Public waters wetland" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 15a.

Subp. 70a. **PUC.** "PUC" means the Minnesota Public Utilities Commission.

Subp. 71. **Recreational development.** "Recreational development" means facilities for temporary residence while in pursuit of leisure activities. Recreational development includes, but is not limited to, recreational vehicle parks, rental or owned campgrounds, and condominium campgrounds.

Subp. 71a. **Refuse-derived fuel.** "Refuse-derived fuel" means the product resulting from techniques or processes used to prepare solid waste by shredding, sorting, or compacting for use as an energy source.

Subp. 71b. **Release.** "Release" has the meaning given in part 4420.0010, subpart 19.

Subp. 72. [Repealed, 13 SR 1437]

Subp. 73. **Resource recovery.** "Resource recovery" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 74. [Repealed, 13 SR 1437]

Subp. 75. **Responsible governmental unit.** "Responsible governmental unit" means the governmental unit that is responsible for preparation and review of environmental documents.

Subp. 76. **RGU.** "RGU" means responsible governmental unit.

Subp. 77. **Scientific and natural area.** "Scientific and natural area" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 5.

Subp. 78. **Scram mining operation.** "Scram mining operation" has the meaning given in part 6130.0100.

Subp. 79. **Second class city.** "Second class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 79a. **Sensitive shoreland area.** "Sensitive shoreland area" means shoreland designated as a special protection district pursuant to part 6120.3200 or shoreland riparian to any of the following types of public waters:

A. lakes or bays of lakes classified as natural environment pursuant to part 6120.3000;

B. trout lakes and streams designated pursuant to part 6264.0050;

C. wildlife lakes designated pursuant to Minnesota Statutes, section 97A.101, subdivision 2;

D. migratory waterfowl feeding and resting lakes designated pursuant to Minnesota Statutes, section 97A.095, subdivision 2; or

E. outstanding resource value waters designated pursuant to part 7050.0180.

Subp. 80. **Sewage collection system.** "Sewage collection system" means a piping or conveyance system that conveys wastewater to a wastewater treatment plant.

Subp. 81. **Sewered area.** "Sewered area" means an area:

A. that is serviced by a wastewater treatment facility or a centralized septic system servicing the entire development; or

B. that is located within the boundaries of the metropolitan urban service area, as defined pursuant to the development framework of the Metropolitan Council.

Subp. 81a. **Shore impact zone.** "Shore impact zone" has the meaning given in part 6120.2500, or in a local ordinance, if the ordinance specifies a greater size for the zone.

Subp. 82. **Shoreland.** "Shoreland" has the meaning given in part 6120.2500, subpart 15, of the Department of Natural Resources.

Subp. 83. [Repealed, 21 SR 1458]

Subp. 84. **Solid waste.** "Solid waste" has the meaning given in Minnesota Statutes, section 116.06, subdivision 22.

Subp. 84a. **Sports or entertainment facility.** "Sports or entertainment facility" means a facility intended for the presentation of sports events and various forms of entertainment or amusement. Examples include sports stadiums or arenas, racetracks, concert halls or amphitheaters, theaters, facilities for pageants or festivals, fairgrounds, amusement parks, and zoological gardens.

Subp. 85. **State trail corridor.** "State trail corridor" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 4.

Subp. 86. **Storage.** "Storage," as used in part 4410.4300, subpart 16, item D, has the meaning given in Code of Federal Regulations 1980, title 40, section 260.10 (a)(66).

Subp. 87. **Third class city.** "Third class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 88. **Tiering.** "Tiering" means incorporating by reference the discussion of an issue from a broader or more general EIS. An example of tiering is the incorporation of a program or policy statement into a subsequent environmental document of a more narrow scope, such as a site-specific EIS.

Subp. 89. **Transfer station.** "Transfer station" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 89a. **Warehousing facility.** "Warehousing facility" means a subcategory of industrial-commercial land use that has as its primary function the storage of goods or materials. Warehousing facilities may include other uses, such as office space or sales, in minor amounts.

Subp. 90. **Waste.** "Waste" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 34.

Subp. 91. **Waste facility.** "Waste facility" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 35.

Subp. 92. **Wastewater treatment facility.** "Wastewater treatment facility" means a facility for the treatment of municipal or industrial waste water.

Subp. 92a. **Water-related land use management district.** "Water-related land use management district" includes:

- A. shoreland areas;
- B. floodplains;
- C. wild and scenic rivers districts;
- D. areas subject to the comprehensive land use plan of the Project Riverbend Board under Minnesota Statutes, chapter 103F; and
- E. areas subject to the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 103F.

Subp. 92b. **Water-related land use management district ordinance or plan, approved.** "Water-related land use management district ordinance or plan, approved" means:

- A. a state-approved shoreland ordinance;
- B. a state-approved floodplain ordinance;
- C. a state-approved wild and scenic rivers district ordinance;

D. the comprehensive land use plan of the Project Riverbend Board under Minnesota Statutes, chapter 103F; or

E. the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 103F.

Subp. 92c. **Waters of the state.** "Waters of the state" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 17.

Subp. 93. **Wetland.** "Wetland" has the meaning given in U.S. Fish and Wildlife Service Circular No. 39 (1971 edition).

Subp. 94. **Wild and scenic rivers district.** "Wild and scenic rivers district" means a river or a segment of the river and its adjacent lands that possess outstanding scenic, recreational, natural, historical, scientific, or similar values and has been designated by the commissioner of the DNR or by the legislature of the state of Minnesota for inclusion within the Minnesota wild and scenic rivers system pursuant to Minnesota Statutes, sections 103F.301 to 103F.345, or by congress for inclusion within the national wild and scenic rivers system pursuant to United States Code 1976, title 16, sections 1274 to 1286.

Subp. 95. **Wild and scenic rivers district ordinances, state approved.** "Wild and scenic rivers district ordinances, state approved" means a local governmental unit ordinance implementing the state management plan for the district. The ordinance must be approved by the commissioner of the DNR pursuant to parts 6105.0220 to 6105.0250 or 6105.0500 to 6105.0550 of the Department of Natural Resources.

Subp. 96. **Wilderness area.** "Wilderness area" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 6.

Statutory Authority: *MS s 116C.94; 116D.04; 116D.045*

History: *L 1983 c 289 s 115; 11 SR 714; 13 SR 1437; 17 SR 139; 17 SR 1279; 21 SR 1458; 28 SR 951; 31 SR 539; 31 SR 646; 34 SR 721*

Posted: *November 30, 2009*

4410.0300 AUTHORITY, SCOPE, PURPOSE, AND OBJECTIVES.

Subpart 1. **Authority.** Parts 4410.0200 to 4410.6500 are issued under authority granted in Minnesota Statutes, chapter 116D, to implement the environmental review procedures established by the Minnesota Environmental Policy Act.

Subp. 2. **Scope.** Parts 4410.0200 to 4410.6500 apply to all governmental actions. They shall apply to projects for which environmental review has not been initiated prior to September 28, 1982. For any project for which environmental review has been initiated by submission of a citizens petition, environmental assessment worksheet, environmental impact statement preparation notice, or environmental impact statement to the EQB prior to September 28, 1982, all governmental decisions that may be required for that project shall be acted upon in accord with prior rules.

Subp. 3. **Purpose.** The Minnesota Environmental Policy Act recognizes that the restoration and maintenance of environmental quality is critically important to our welfare. The act also recognizes that human activity has a profound and often adverse impact on the environment.

A first step in achieving a more harmonious relationship between human activity and the environment is understanding the impact which a proposed project will have on the environment. The purpose of parts 4410.0200 to 4410.6500 is to aid in providing that understanding through the preparation and public review of environmental documents.

Environmental documents shall contain information that addresses the significant environmental issues of a proposed action. This information shall be available to governmental units and citizens early in the decision making process.

Environmental documents shall not be used to justify a decision, nor shall indications of adverse environmental effects necessarily require that a project be disapproved. Environmental documents shall be used as guides in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.

Subp. 4. **Objectives.** The process created by parts 4410.0200 to 4410.6500 is designed to:

A. provide usable information to the project proposer, governmental decision makers and the public concerning the primary environmental effects of a proposed project;

B. provide the public with systematic access to decision makers, which will help to maintain public awareness of environmental concerns and encourage accountability in public and private decision making;

C. delegate authority and responsibility for environmental review to the governmental unit most closely involved in the project;

- D. reduce delay and uncertainty in the environmental review process; and
- E. eliminate duplication.

Statutory Authority: *MS s 116D.04*

Posted: *November 30, 2009*

4410.1000 PROJECTS REQUIRING AN EAW.

Subpart 1. **Purpose of an EAW.** The EAW is a brief document prepared in worksheet format which is designed to rapidly assess the environmental effects which may be associated with a proposed project. The EAW serves primarily to:

A. aid in the determination of whether an EIS is needed for a proposed project; and

B. serve as a basis to begin the scoping process for an EIS.

Subp. 2. **Mandatory EAW categories.** An EAW shall be prepared for any project that meets or exceeds the thresholds of any of the EAW categories listed in part 4410.4300 or any of the EIS categories listed in part 4410.4400.

Subp. 3. **Discretionary EAWs.** An EAW shall be prepared:

A. when a project is not exempt under part 4410.4600 and when a governmental unit with approval authority over the proposed project determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects;

B. when a project is not exempt under part 4410.4600 and when a governmental unit with approval authority over a proposed project determines pursuant to the petition process set forth in part 4410.1100 that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects;

C. whenever the EQB determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects (this item shall not be applicable to a project exempt under part 4410.4600 or to a project for which a governmental unit, with approval authority over the project, has made a prior negative or positive determination concerning the need for an EAW concerning the project); or

D. when the proposer wishes to initiate environmental review to determine if a project has the potential for significant environmental effects.

Subp. 4. **Connected actions and phased actions.** Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EAW, preparing the EAW, and determining the need for an EIS.

In connected actions and phased actions where it is not possible to adequately address all the project components or stages at the time of the initial EAW, a new EAW must be completed before approval and construction of each subsequent project component or stage. Each EAW must briefly describe the past and future stages or components to which the subject of the present EAW is related.

For proposed projects such as highways, streets, pipelines, utility lines, or systems where the proposed project is related to a large existing or planned network, for which a governmental unit has determined environmental review is needed, the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration in the threshold determination and EAW. These selections must be logical in relation to the design of the total system or network and must not be made merely to divide a large system into exempted segments.

When review of the total of a project is separated under this subpart, the components or stages addressed in each EAW must include at least all components or stages for which permits or approvals are being sought from the RGU or other governmental units.

Subp. 5. **Change in proposed project; new EAW.** If, after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project or has occurred in the project's circumstances, which change may affect the potential for significant adverse environmental effects that were not addressed in the existing EAW, a new EAW is required.

Statutory Authority: *MS s 116D.04; 116D.045*

History: *13 SR 1437; 31 SR 539; 34 SR 721*

Posted: *November 30, 2009*

When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

Committee Comment--1977

The rule extends the present rule with regard to depositions to other writings and recordings. Minn. R. Civ. P. 32.01(4). The rule is not intended to apply to conversations.

ARTICLE 2. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

- (a) **Scope of rule.** This rule governs only judicial notice of adjudicative facts in civil cases.
- (b) **Kinds of facts.** A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
- (c) **When discretionary.** A court may take judicial notice, whether requested or not.
- (d) **When mandatory.** A court shall take judicial notice if requested by a party and supplied with the necessary information.
- (e) **Opportunity to be heard.** A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
- (f) **Time of taking notice.** Judicial notice may be taken at any stage of the proceeding.
- (g) **Instructing jury.** The court shall instruct the jury to accept as conclusive any fact judicially noticed.

(Amended effective January 1, 1990.)

Committee Comment--1989

Rule 201(a)

The rule governing judicial notice is applicable only to civil cases. The status of the law governing the use of judicial notice in criminal cases is unsettled and not appropriate for codification. While it is understood that a trial judge should not direct a verdict against an accused in a criminal case, it is less clear the extent to which the court can take judicial notice of uncontested and uncontradictable peripheral facts or facts establishing venue. See e.g., State v. White, 300 N.W.2d 176 (Minn. 1980); State v. Trezona, 286 Minn. 531, 176 N.W.2d 95 (1970). Trial courts should rely on applicable case law to determine the appropriate use of judicial notice in criminal cases.

This rule is limited to judicial notice of "adjudicative" facts, and does not govern judicial notice of "legislative" facts. The distinction between adjudicative and legislative facts was developed by Professor Kenneth C. Davis. An Approach to Problems of Evidence in the Administrative Process, 55 Harv. L. Rev. 364, 404-407 (1942); Judicial Notice, 55 Colum. L. Rev. 945 (1955); Administrative Law Text, Ch. 15 (3d ed. 1972).

Adjudicative facts generally are the type of facts decided by juries. Facts about the parties, their activities, properties, motives, and intent, the facts that give rise to the controversy, are adjudicative facts.

Legislative facts involve questions of law and policy and normally are decided by the court. See Beaudette v. Frana, 285 Minn. 366, 372, 173 N.W.2d 416, 419, 420 (1969) where the Court notices the

effect which various courses of conduct might have upon the integrity of the marriage relationship. See also McCormack v. Hanksraft Co., 278 Minn. 322, 338, 154 N.W.2d 488, 500 (1967) "(e)nlarging a manufacturer's liability to those injured by its products more adequately meets public policy demands to protect consumers from the inevitable risks of bodily harm created by mass production and complex marketing conditions." The Committee was in agreement with the promulgators of the federal rule of evidence in not limiting judicial notice of legislative facts. See United States Supreme Court Advisory Committee Note.

Rule 201(b)

Minnesota has traditionally limited judicial notice of adjudicative facts to situations incapable of serious dispute. See State ex rel. Remick v. Clousing, 205 Minn. 296, 301, 285 N.W. 711, 714, 123 A.L.R. 465 (1939). This includes matters capable of accurate and ready determination. See Bollenbach v. Bollenbach, 285 Minn. 418, 429, 175 N.W.2d 148, 156 (1970), as well as facts of common knowledge; In re Application of Baldwin, 218 Minn. 11, 16, 17, 15 N.W.2d 184, 187 (1944).

Rule 201(c), (d)

These issues have received little attention in Minnesota. See generally State, Department of Highways v. Halvorson, 288 Minn. 424, 429, 181 N.W.2d 473, 476 (1970). The net effect of the rule should be to encourage the taking of judicial notice in appropriate circumstances. The improper refusal to take judicial notice would not necessarily be reversible. See Rule 103.

Rule 201(e)

The opportunity to be heard is a mainstay of procedural fairness. This right is protected by the rule. If the limits imposed upon the judicial notice by subdivision (b) of this rule are properly observed, there should be relatively little controversy concerning the right to be heard. The shape of the hearing on the issue of judicial notice rests in the discretion of the trial judge. However, in a jury trial such a hearing should always be outside of the presence of the jury. Rule 103(c). See also rule 104(c).

Rule 201(f)

This subdivision recognizes that the circumstances which make judicial notice of adjudicative facts appropriate are not limited to any particular stage of the judicial process.

Rule 201(g)

The conclusive nature of judicially noticed facts in civil cases is consistent with the restrictions which the rule places upon the kinds of facts which can be judicially noticed. The rule does not affect judicial notice of foreign law. See Minn. R. Civ. P. 44.04. There are a number of existing statutes that deal with judicial notice of local laws, regulations, etc. See e.g., Minnesota Statutes, chapter 599, and sections 268.12(3), 410.11 (1974); Minnesota Statutes 1975 Supplement, section 15.049.

ARTICLE 3. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

Rule 301. Presumptions in General in Civil Actions and Proceedings

In all civil actions and proceedings not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

Committee Comment—1977



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

MICHAEL O. FREEMAN COUNTY ATTORNEY

December 19, 2011

VIA ELECTRONIC MAIL

Patrick Whiting
Assistant Attorney General
Minnesota Attorney General's Office
Bremer Tower, Suite 1800
445 Minnesota Street
St. Paul, MN 55101-2134

Dear Pat:

This is to notify you that the Board of the Hennepin County Regional Railroad Authority passed the following resolution today:

"BE IT RESOLVED, that the HCRRA Board directs staff to notify the Minnesota Department of Transportation that, in light of direction from the Federal Transit Administration regarding the Southwest LRT project (and only for purposes of completing the Southwest LRT project): (1) the Hennepin County Regional Railroad Authority has determined that freight rail relocation no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project under state law; (2) HCRRA will amend the DEIS to include freight line relocation in the scope of the Southwest LRT project; and (3) freight rail location either to the MN&S corridor or within the Kenilworth Corridor will be included as an element of that overall Southwest LRT project that will be subject to environmental review under state and federal environmental law."

Sincerely,

A handwritten signature in dark ink, appearing to read "Howard R. Orenstein", written over a horizontal line.

HOWARD R. ORENSTEIN
Sr. Assistant Hennepin County Attorney
Telephone: (612) 348-4618
FAX: (612) 348-8299



Minnesota Department of Transportation

395 John Ireland Boulevard

Saint Paul, MN 55155

December 20, 2011

To Whom It May Concern:

RESOLUTION

WHEREAS, a project consisting of track improvements to the existing Canadian Pacific (CP) Bass Lake Spur, CP Minneapolis, Northfield & Southern (MN&S) Spur, and the Burlington Northern Santa Fe (BNSF) Wayzata Subdivision in the City of St. Louis Park was proposed to accommodate the relocation of the Twin Cities and Western (TC&W) freight rail traffic currently operating in the Kenilworth Corridor in Minneapolis (Proposed Freight Project); and

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) was the Proposer of the Proposed Freight Project, as the term "Proposer" is defined by Minn. R. 4410.0200, subp. 68 (2011); and

WHEREAS, the Minnesota Department of Transportation (MnDOT) was the Responsible Governmental Unit (RGU) for the Proposed Freight Project pursuant to Minn. R. 4410.0500, subp. 2 (2011), and as the term "RGU" is defined by Minn. R. 4410.0200, subp. 76 (2011); and

WHEREAS, MnDOT prepared an Environmental Assessment Worksheet (EAW) for the Proposed Freight Project pursuant to Minn. R. 4410.1400 (2011), and as the term "Environmental Assessment Worksheet" is defined by Minn. Stat. § 116D.04, subd. 1a(c) (2011) and Minn. R. 4410.0200, subp. 17 (2011); and

WHEREAS, MnDOT published notice of the completion of the EAW for the Proposed Freight Project and provided copies of the EAW to the Minnesota Environmental Quality Board and its member agencies, and received and responded to comments on the need for an Environmental Impact Statement (EIS) following publication pursuant to the requirements of Minn. Stat. § 116D.04, subd. 2a(b) (2011), Minn. R. 4410.1500 (2011); Minn. R. 4410.1600 (2011); and

WHEREAS, MnDOT determined that the Proposed Freight Project does not have the potential for significant environmental impact pursuant to Minn. R. 4410.1700 (2011); and

An Equal Opportunity Employer



WHEREAS, MnDOT determined that an Environmental Impact Statement (EIS) was not required pursuant to the Minnesota Environmental Protection Act, Minn. Stat. § 116D.01, et seq. (MEPA), and accordingly issued and distributed a Negative Declaration on June 30, 2011, pursuant to Minn. R. 4410.1700 (2011); and

WHEREAS, on December 19, 2011, the HCRRA Board passed a resolution determining that the Proposed Freight Project no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project;

NOW THEREFORE, MnDOT hereby vacates the EAW for the Proposed Freight Project; and

NOW THEREFORE, MnDOT hereby vacates its Negative Declaration for the Proposed Freight Project; and

NOW THEREFORE, because the Proposed Freight Project is no longer being pursued as a standalone project by the Proposer, environmental review as a standalone project is no longer required; and

NOW THEREFORE, if any other project is proposed in the future, the need for a new environmental review will be evaluated in accordance with the provisions of the Minnesota Environmental Policy Act.



Frank Pafko
Chief Environmental Officer
Minnesota Department of Transportation

An Equal Opportunity Employer



STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

v.

Minnesota Department of Transportation,

Respondent.

**RELATORS LAPRAY, ET AL.'S
RESPONSE TO RESPONDENT'S
MOTION TO DISMISS**

Appellate Court Case Nos.

A11-1345

A11-1386

INTRODUCTION

On December 2, 2012, after two extensions requested by Respondent Minnesota Department of Transportation (“MnDOT”), Relators Jami Ann LaPray, et al. (collectively, “LaPray”) submitted its opening brief in this matter. That brief established that the Environmental Assessment Worksheet (“EAW”) prepared on a freight rail relocation project proposed by the Hennepin County Regional Railroad Authority (“HCRRA”) was inadequate under the Minnesota Environmental Policy Act (“MEPA”), Minn. Stat. ch. 116D. Approximately two weeks later, on December 19, 2011, HCRRA determined not to pursue the proposed freight rail relocation as a stand-alone project under MEPA. The next day, December 20, 2011, MnDOT took the unprecedented step of vacating the EAW and the negative declaration on the need for an environmental impact statement. It appears that the actions of HCRRA and MnDOT have rendered LaPray’s

challenge of the EAW moot. However, as discussed below, merely including the freight rail relocation project as part of an ongoing environmental impact statement on HCRRA's proposed southwest light rail transit line ("SWLRT")—HCRRA's apparent intention, at the behest of the Federal Transit Administration ("FTA")—does not guarantee that analysis of the freight rail relocation will comply with MEPA and the National Environmental Policy Act, 42 U.S.C. §§ 4321-4370h ("NEPA"). Moreover, in vacating its EAW and its decision that the freight rail relocation project does not merit an environmental impact statement under MEPA, MnDOT has apparently rendered both its EAW and its decision a nullity. Therefore, as MnDOT acknowledges, any future state-only project proposing to relocate freight traffic to tracks constructed in the City of St. Louis Park must undergo the entire MEPA environmental review process anew, without reference to the EAW or MnDOT's negative declaration on the need for an environmental impact statement.

FACTUAL BACKGROUND

The HCRRA project that MnDOT's EAW evaluated was a proposal to change the route that Twin Cities & Western ("TC&W") freight trains travel through St. Louis Park and into Minneapolis. LaPray Appellate Br. at 5, filed Dec. 2, 2011.¹ Currently, the TC&W freight trains arriving from the West take the Bass Lake Spur through St. Louis Park to West Lake Street in Minneapolis, continue on to the Cedar Lake Junction on track owned by HCRRA in what is known as the Kenilworth Corridor, connect with the BNSF

¹ Rather than resubmitting portions of MnDOT's administrative record already submitted in LaPray's appellate brief and appendix, filed on December 2, 2011, LaPray is citing relevant pages of its appellate brief.

Wayzata Subdivision, and continue through Minneapolis and into St. Paul. *Id.* Under HCRRA's proposed project the TC&W freight trains would still begin their route on the Bass Lake Spur and connect with the BNSF Wayzata Subdivision. However, rather than taking the Kenilworth Corridor, the TC&W trains would be rerouted north through St. Louis Park, after which they would connect with the Wayzata Subdivision and continue on into Minneapolis. *Id.*

HCRRA is also the project proposer and current responsible governmental unit ("RGU") under MEPA for SWLRT between Eden Prairie and Minneapolis. *Id.* at 8. Decades ago, HCRRA purchased the Kenilworth Corridor to preserve the right-of-way for future light rail transit use, allowed the TC&W temporary use for freight rail, and noted that TC&W would have to vacate the corridor when HCRRA proposed the SWLRT project. *Id.* at 8-9.

In the fall of 2009 HCRRA recommended as the SWLRT Locally Preferred Alternative a route that would run alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis. *Id.* at 9. Also in the fall of 2009, HCRRA in the TC&W Freight Train Realignment Study concluded that the Kenilworth Corridor right-of-way could not accommodate both the proposed SWLRT and the existing TC&W freight rail lines. *Id.* Accordingly, HCRRA recommended removing the TC&W trains from the Kenilworth Corridor and rerouting them north through St. Louis Park on the MN&S Spur to connect with the BNSF Wayzata Subdivision in the northern part of the City. *Id.* This rerouting of the TC&W freight trains is the project that MnDOT's now-vacated EAW addressed. *Id.*

In May 2011, MnDOT, the RGU under MEPA for the freight rail relocation project, prepared an EAW and solicited public comment on the document. *Id.* The comment period for the EAW closed on June 15, 2011. *Id.* During the comment period numerous parties, including the City of St. Louis Park, the St. Louis Park Public Schools, and many others submitted comments critical of the EAW. *Id.* at 9-10. The comments addressed the inadequacy of the EAW's analysis, HCRRA's failure to offer adequate mitigation, and HCRRA's and MnDOT's failure to adequately address connected actions, including SWLRT. *Id.* MnDOT issued Findings of Fact and Conclusions on June 30, 2011, that determined the EAW complied with MEPA and that an EIS was not needed. *Id.* at 11. On July 28, 2011, LaPray challenged the adequacy of the MnDOT EAW by obtaining a writ of certiorari in this Court. On August 5, 2011, Relator City of St. Louis Park (the "City") challenged the adequacy of the MnDOT EAW by obtaining a writ of certiorari in this Court. This Court consolidated the two actions on August 12, 2011, and ordered MnDOT to submit a final itemized list of the contents of its administrative record by September 9, 2011. MnDOT served the itemized administrative record contents list on September 6, 2011, making LaPray's and the City's briefs due on October 6, 2011. *Lightfoot Aff.*, ¶ 2.

On September 2, 2011, FTA—the lead federal agency for the SWLRT project NEPA—sent the Metropolitan Council a letter regarding the HCRRA Kenilworth Corridor project addressed in the EAW. According to FTA, the ongoing environmental impact statement for SWLRT must “[a]nalyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned Southwest

LRT route” because “the freight rail relocation is necessary for [HCRRA] to be able to implement the Southwest LRT project as planned” Lightfoot Aff., ¶ 3, Ex. A. Shortly after FTA sent its letter to the Metropolitan Council, MnDOT approached LaPray and the City to request an extension of the briefing schedule. Lightfoot Aff., ¶ 4. On October 5, 2011, this Court granted the parties’ joint motion to extend the briefing schedule to allow LaPray and the City to file their initial briefs on November 4 because “recent developments may require the disputed project to undergo further environmental analysis as a part of a federal environmental-impact statement.” Lightfoot Aff., ¶ 5, Ex. B. On November 3, 2011, this Court granted a second extension of the briefing schedule, also at MnDOT’s request, allowing LaPray and the City to file their initial briefs by December 2, 2011. Lightfoot Aff., ¶¶ 6-7 & Ex. C. The parties and HCRRA met to discuss settlement twice before December 2 but were unable to reach agreement. Lightfoot Aff., ¶ 8.

On December 2, 2011, LaPray and the City filed their initial appellate briefs. On December 19, 2011, HCRRA passed a resolution regarding the freight rail relocation project evaluated in MnDOT’s EAW. The resolution stated that “in light of direction from the Federal Transit Administration,” HCRRA would include the proposed freight rail relocation project in the environmental impact statement on SWLRT because the project was within “the scope of the Southwest LRT project.” Lightfoot Aff., ¶ 9, Ex. D. Accordingly, the freight rail relocation project would not proceed as a “standalone project under state law” and “will be included as an element of that overall Southwest LRT

project that will be subject to environmental review under state and federal environmental law.” *Id.*

The next day, December 20, 2011, MnDOT issued a resolution regarding the proposed HCRRA freight rail relocation project. The resolution noted that in light of HCRRA’s resolution that the freight rail relocation project “no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project,” MnDOT was vacating both its EAW and its negative declaration on the need for an environmental impact statement for the freight rail relocation project. Lightfoot Aff., ¶ 10, Ex. E. MnDOT’s resolution also clearly stated that if “any other [freight rail relocation] project is proposed in the future, the need for a new environmental review will be evaluated in accordance with the provisions of the Minnesota Environmental Policy Act.” *Id.* On January 3, 2012, citing the December 19, 2011, HCRRA resolution and its own December 20, 2011, resolution, MnDOT moved to dismiss this action.

ARGUMENT

I. MNDOT’S UNPRECEDENTED ACTION UNDER MEPA, TAKEN AFTER LAPRAY’S AND THE CITY’S BRIEFS ESTABLISHED THAT THE EAW WAS INADEQUATE, HAS MOOTED THE CHALLENGE TO THE EAW.

A. LaPray’s Brief Established That the EAW was Inadequate.

LaPray’s brief established that the EAW was inadequate under MEPA for five general reasons. First, the EAW was inadequate because MnDOT and HCRRA failed to discuss the freight rail relocation project and the SLWRT project as “connected actions.” MEPA requires that connected actions be considered in total in a single EAW—

something the freight rail project EAW utterly failed to do. LaPray Br. at 13-18. Second, the EAW failed to comply with MEPA because it did not consider the SWLRT project as a “phased action.” *Id.* at 19-20. Third, the EAW failed to comply with MEPA because it did not fully analyze the freight rail relocation’s noise and vibration impacts, and because it proposed inadequate measures to mitigate the proposed project’s noise and vibration. *Id.* at 20-30. Fourth, the EAW provided an inadequate analysis of the proposed project’s safety impacts. *Id.* at 30-34. Fifth, MnDOT ignored or summarily dismissed substantive comments on the EAW. *Id.* at 25-27, 34.

Rather than address LaPray’s arguments on the merits, HCRRA and MnDOT took unprecedented actions under MEPA to moot LaPray’s EAW challenge. Although a project proposer such as HCRRA is free not to proceed with a project that has been the subject of environmental review, neither MEPA nor the Environmental Quality Board rules implementing the statute expressly provide that an RGU may “vacate” an environmental review document. MnDOT cites no case law—and LaPray could find none—in which a MEPA project proposer formally “withdrew” a proposed project and an RGU subsequently “vacated” both an underlying MEPA environmental review document for the withdrawn project and the decision that the document was adequate.

Moreover, mere inclusion of the freight rail relocation project as a part of the environmental impact statement on HCRRA’s SWLRT project does not mean that the SWLRT analysis of freight rail relocation will satisfy the requirements of NEPA and MEPA. Under MEPA and NEPA, governmental agencies must assess the impacts of a proposed action and mitigation to address those impacts “early in the decision making

process.” See, e.g., Minn. R. 4410.0300, subp. 3 (EQB rule implementing MEPA). See also *Trout Unlimited, Inc. v. Minn. Dep’t of Ag.*, 528 N.W.2d 903, 909 (Minn. Ct. App. 1995) (same); *Blue Mts. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998) (same, construing NEPA and citing *Marsh v. Oregon Natural Res. Council*, 490 U.S. 360, 371 (1989)); *Appalachian Mt. Club v. Brinegar*, 394 F. Supp. 105, 122 (D.N.H. 1975) (same, construing NEPA). If the environmental impact statement on SWLRT offers the same conclusory statements, broad generalizations, and vague references that MnDOT and HCRRA provided in the EAW, then the SLWRT environmental impact statement will not meet the requirements of NEPA or MEPA. *Nat’l Parks & Conserv. Ass’n v. Bureau of Land Management*, 606 F.3d 1058, 1072-73 (9th Cir. 2010) (construing NEPA in holding that discussion of impacts must be full and fair); *Nat’l Audubon Soc’y v. Dep’t of Navy*, 422 F.3d 174, 194 (4th Cir. 2005) (holding that under NEPA an “agency’s hard look should include neither researching in a cursory manner nor sweeping negative evidence under the rug”); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372, 1380-81 (9th Cir. 1998) (under NEPA, an environmental review document must contain a detailed analysis of mitigation measures and their effectiveness, not “broad generalizations and vague references”); *Oregon Nat. Res. Council v. Harrell*, 52 F.3d 1499, 1507 (9th Cir. 1995) (untested mitigation or mitigation that is “continuing to be discussed” is inadequate under NEPA).

B. MnDOT Correctly Acknowledges That Any Future Freight Rail Relocation Project Must Undergo Environmental Review “Anew” Under MEPA.

MnDOT repeatedly states that its December 20, 2011, resolution addressing the freight rail relocation EAW vacated the entire EAW as well as MnDOT’s decision that the EAW was adequate under MEPA. MnDOT Memo. of Law at 2, 7, 9, 11. As MnDOT succinctly describes its action: “Neither the EAW nor the Negative Declaration can be relied upon now or in the future, since, for all practical and legal purposes, those documents *no longer exist*.” *Id.* at 9 (emphasis original). Moreover, according to MnDOT, HCRRA’s decision to “withdraw” the freight rail relocation project as a stand-alone state proposal under MEPA means “there is no longer a Project to evaluate.” *Id.* at 12. As a result, MnDOT correctly acknowledges that for any project proposing to relocate freight traffic from the Kenilworth Corridor to tracks constructed in the City of St. Louis Park—whether “proposed again by HCRRA (or anyone else)” —the “MEPA environmental review process will have to begin anew.” *Id.* at 14. And MnDOT further states that its “EAW and Negative Declaration” would not be a part of that review process “since both [the EAW and the Negative Declaration] have been vacated.” *Id.* Accordingly, any RGU conducting such new MEPA environmental review of a state-only freight rail relocation proposal would have to comply with the statute and all Environmental Quality Board rules implementing the statute. These requirements include the Environmental Quality Board rules mandating the preparation of a draft environmental review document, publication of a notice of availability and a press release regarding the availability of the draft environmental review document for public


comment, and related rules associated with obtaining input on the document from interested parties. *See generally* Minn. R. 4410.1500.

CONCLUSION

HCRRA and MnDOT, by taking actions that are unprecedented under MEPA after LaPray filed its opening appellate brief, have mooted LaPray's challenge of the EAW for the freight rail relocation project. In so doing, HCRRA and MnDOT have opted not to respond to LaPray's arguments on the merits. Mere inclusion of the freight rail relocation project as a part of the environmental impact statement on HCRRA's SWLRT project does not mean that SWLRT analysis will satisfy the requirements of NEPA and MEPA. If the environmental impact statement on SWLRT offers the same conclusory statements, broad generalizations, and vague references that MnDOT and HCRRA provided in the EAW, then the SLWRT environmental impact statement will be inadequate. Moreover, MnDOT correctly acknowledges that for any future project proposing to relocate freight traffic from the Kenilworth Corridor to tracks constructed in the City of St. Louis Park, the MEPA environmental review process must begin anew without reference to the EAW or MnDOT's negative declaration on the need for an environmental impact statement.

Dated: January 10, 2012

THE ENVIRONMENTAL LAW GROUP, LTD.

By: 
Thaddeus R. Lightfoot (#24594X)
133 First Avenue North
Minneapolis, MN 55401
Tel: (612) 623-2363
Fax: (612) 378-3737

Attorneys for Relators Jami LaPray, et al.

STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

v.

Minnesota Department of Transportation,

Respondent.

**AFFIDAVIT OF
THADDEUS R. LIGHTFOOT IN
SUPPORT OF RELATORS
LAPRAY, ET AL.'S RESPONSE TO
RESPONDENT'S MOTION TO
DISMISS**

Appellate Court Case Nos.

A11-1345

A11-1386

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Thaddeus R. Lightfoot, being first duly sworn and upon oath, deposes and states as follows:

1. I am counsel for Relators Jami Ann LaPray, et al., in this matter and have first-hand knowledge of the matters set forth in this affidavit.

2. Respondent Minnesota Department of Transportation ("MnDOT") served its itemized list of administrative record contents on September 6, 2011, making LaPray's initial appellate brief due 30 days later, on October 6, 2011.

3. Exhibit A to this affidavit is a September 2, 2011, letter sent by the Federal Transit Administration to the Metropolitan Council. The letter is also included in LaPray's Appendix, filed with this Court on December 2, 2011, at A-497 to A-500.

4. On September 30, 2011, Patrick Whiting, counsel for MnDOT in this matter, sent an email to myself and Thomas Scott, counsel for Respondent City of St. Louis Park, requesting an extension of the briefing schedule in this matter. Both Mr. Scott and I agreed to Mr. Whiting's request and signed a joint motion to extend the briefing schedule.

5. Exhibit B to this affidavit is this Court's order of October 5, 2011, granting the parties' joint motion to extend the briefing schedule in this matter and ordering Respondents to file their opening appellate briefs on or before November 4, 2011.

6. On October 27, 2011, Mr. Whiting again sent an email to myself and Mr. Scott requesting a second extension of the briefing schedule in this matter. Both Mr. Scott and I agreed to Mr. Whiting's request and signed a second joint motion to extend the briefing schedule.

7. Exhibit C to this affidavit is this Court's order of November 3, 2011, granting the parties' joint motion to extend the briefing schedule in this matter and ordering Respondents to file their opening appellate briefs on or before December 2, 2011.

8. Client representatives and counsel from MnDOT, the Hennepin County Regional Railroad Authority, the City of St. Louis Park, and Relators Jami Ann LaPray, et al., met on November 7, 2011, and November 22, 2011, to discuss settlement but were unable to reach an agreement.

9. Exhibit D to this affidavit is a letter from Howard R. Orenstein, Senior Assistant Hennepin County Attorney, to Patrick Whiting, counsel for MnDOT, dated

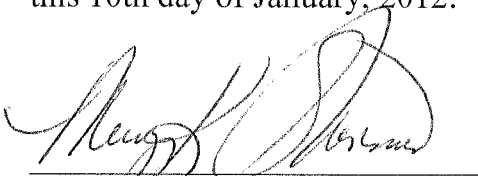
December 19, 2011, summarizing the Hennepin County Regional Railroad Authority's resolution of the same date addressing the proposed freight rail relocation project that was the subject of MnDOT's environmental assessment worksheet ("EAW"). Mr. Whiting provided me with a copy of this letter on December 20, 2011.

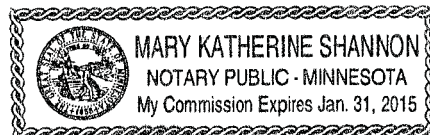
10. Exhibit E to this affidavit is a December 20, 2011, resolution of MnDOT addressing the proposed freight rail relocation project that was the subject of MnDOT's EAW. Patrick Whiting, MnDOT's counsel, provided me with a copy of this resolution on December 20, 2011.

FURTHER AFFIANT SAYETH NOT.


Thaddeus R. Lightfoot

Subscribed and sworn to before me
this 10th day of January, 2012.


Notary Public





U.S. Department
of Transportation
Federal Transit
Administration

REGION V
Illinois, Indiana,
Michigan, Minnesota,
Ohio, Wisconsin

200 West Adams Street
Suite 320
Chicago, IL 60606-5253
312-353-2769
312-886-0351 (fax)

The Honorable Susan Haigh
Chairman
Metropolitan Council
390 Robert Street North
St. Paul, MN 55101-1805

September 2, 2011

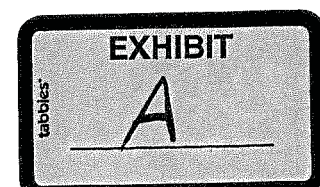
Re: Preliminary Engineering Approval for the Minneapolis Southwest Corridor Light Rail Project

Dear Ms. Haigh:

The Federal Transit Administration (FTA) is pleased to inform you that the Metropolitan Council's (MC) Southwest Corridor light rail transit (LRT) project located in the City of Minneapolis and Hennepin County has been approved into the preliminary engineering (PE) phase of project development of the New Starts program. This approval for the initiation of PE is a requirement of Federal transit law governing the New Starts program [40 U.S.C. Section 5309(e)(6)].

This PE approval is for an approximately 15.8-mile double track light rail line extending from the current Target Field station on the eastern end of the route in downtown Minneapolis through several suburban municipalities, including Minnetonka, Hopkins, St. Louis Park and terminating in Eden Prairie at Mitchell Road/Trunk Highway 5 on the western end of the route. The project includes construction of 17 new at-grade stations, 15 park-and-ride facilities with 3,500 total spaces, 26 light rail vehicles and a new rail maintenance facility. The project will operate in a dedicated surface transitway in the median of existing streets, with approximately 1.47 miles of elevated guideway via a flyover bridge over active Burlington Northern Santa Fe Railway freight tracks at Lyndale Junction in Minneapolis and 0.2 miles of tunnel where the LRT line will operate under existing streets near Target Field. The project will link to the existing Hiawatha LRT and the Northstar commuter rail lines and the Central Corridor LRT line, currently under construction, at Target Field and will share tracks with the Central Corridor on 5th Street in downtown Minneapolis, thus providing a one-seat ride from Eden Prairie to Union Depot in downtown St. Paul. The estimated capital cost of the project in year-of-expenditure dollars is \$1,250.48 million. MC is seeking \$625.24 million (50 percent) in Section 5309 New Starts funds. The Southwest LRT line is expected to carry 29,700 average weekday riders in 2030.

With this approval, MC has pre-award authority to incur costs for PE activities prior to grant approval while retaining eligibility for future FTA grant assistance for the incurred costs. This pre-award authority does not constitute an FTA commitment that future Federal funds will be approved for the project. As with all pre-award authority, all Federal requirements must be met prior to incurring costs in order to retain eligibility of the costs for future FTA grant assistance. FTA's approval to initiate PE is not a commitment to approve or fund any final design or construction activities. Such a decision must await the outcome of the analyses to be performed during PE, including completion of the environmental review process.



A-0497

FTA is required by law to evaluate a proposed project against a number of New Starts criteria and ensure that prospective grant recipients demonstrate the technical, legal and financial capability to implement the project. Based on an evaluation of the Southwest LRT project against these criteria, FTA has assigned the project an overall rating of “*Medium*.”

FTA and its Project Management Oversight Contractor (PMOC) conducted a detailed review of the scope, schedule, cost and project risks of the Southwest LRT and the technical capacity and capability of MC to implement the project. FTA has determined that the project meets the requirements for entry into PE and that the MC possesses the technical capacity and capability to implement the project. Some of the key items that MC must address during PE include:

Project Scope

- Solidify the scope for an Operating and Maintenance Facility (OMF). It is unclear if a heavy OMF or a light OMF will be needed. MC must make a decision as early in PE as possible so the corresponding impacts can be properly evaluated during the environmental review process.
- In consultation with the Federal Railroad Administration (FRA), determine the design requirements for adequate safety features for street-grade crossings between the Southwest LRT line and existing freight rail tracks. During PE, MC must address any design standards that FRA requires such as crash walls or grade separations between the Southwest LRT and freight traffic prior to seeking entry into Final Design.
- Analyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned Southwest LRT route, in the project’s Environmental Impact Statement (EIS). Because the freight relocation is necessary for MC to be able to implement the Southwest LRT project as planned, the cost and scope of the freight line relocation must be included in the Southwest LRT project scope and budget, regardless of the funding sources that may be identified to pay for the work. This must be completed prior to seeking entry into Final Design.
- Analyze the reconfiguration of the Canadian Pacific Railroad’s freight tracks where they will be elevated over the Southwest LRT line and include the analysis in the Southwest LRT project’s EIS and cost and scope. The planned flyover, as currently designed by MC, shows sharp curvature, steep grades, and insufficient clearances. This must be completed prior to seeking entry into Final Design.
- Analyze the infrastructure needs, implementation schedule, and planned operations of the Interchange project as it may impact the design, cost, and operations of the Southwest LRT project. The evaluation must be completed prior to seeking entry into Final Design.

Project Schedule

- Based on the results of FTA’s pre-PE risk assessment, the schedule for the project is overly aggressive. MC currently projects a Revenue Service Date (RSD) of April 2017. FTA recommends a RSD no earlier than the first quarter of 2018. MC should work with FTA during PE to arrive at an agreed upon schedule.

- During PE, MC should develop a comprehensive third party coordination plan to address all stakeholder issues, particularly right-of-way acquisition plans, memoranda of agreement (if appropriate), and all requisite permits.

Project Cost

- MC should implement design-to-budget controls and procedures that would require the design team to continually monitor the affect of design development and evolution on the overall project cost, in conjunction with cost estimating activities.

Technical Capacity

- During PE, MC should revise the Project Management Plan (PMP) to specify that staff from the Central Corridor LRT project will also be used for the Southwest LRT project. The MC needs to ensure that adequate staff with the requisite technical expertise will be available to manage the Southwest LRT project's implementation.

Project Funding

The payout of FTA Section 5309 New Starts funds in MC's financial plan exceeds \$100 million per year from 2015 through 2017. Given the current uncertainty surrounding a timeframe for surface transportation reauthorization, the significantly reduced Fiscal Year (FY) 2011 budget for the New Starts program, and the current conversations in Congress surrounding development of the FY 2012 budget, MC should assume no more than \$100 million per year in annual New Starts funding. Given the considerable number of large, high cost projects currently in the New Starts pipeline, it is not possible for the program to provide significantly higher amounts than this on an annual basis to any one project should the program funding level remain at its FY 2011 level of \$1.6 billion. In the event the New Starts program's funding level increases prior to execution of a Full Funding Grant Agreement for the project, FTA will reconsider adjustments to the annual New Starts funding assumptions and coordinate with MC appropriately.

Civil Rights Compliance

Pursuant to the Civil Rights Act of 1964 and its implementing regulations, including FTA Circular 4702.1 (Title VI Program Guidelines for FTA Recipients, Part II, Section 114), FTA approved MC's Title VI program on March 17, 2011. MC must submit a Title VI program update at least 30 calendar days before the current Title VI approval expires on March 17, 2014.

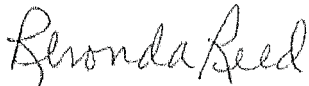
MC has an approved Disadvantaged Business Enterprise goal (DBE). An updated DBE three-year goal is due to FTA on August 1, 2014. MC's most recent Equal Employment Opportunity Plan expires on November 11, 2013.

As project development continues, MC is reminded to ensure that the vehicles, stations and facilities are designed and engineered to ensure compliance with current standards for accessibility under U.S. Department of Transportation regulations implementing the transportation provisions of the Americans with Disabilities Act of 1990 (ADA). MC is advised to independently verify manufacturers' claims of ADA compliance, and to consult with FTA's Office of Civil Rights concerning ADA requirements as project development progresses. The Office of Civil Rights will provide MC a separate letter further detailing ADA compliance issues in the near future.

MC must work with FTA during PE to address the concerns identified above, along with any others that are identified as project development progresses. As PE proceeds, FTA will provide more detail to MC regarding other deliverables that should be completed prior to requesting approval to enter Final Design.

FTA looks forward to working closely with MC during the development of the Southwest light rail project. If you have any questions regarding this letter, please contact Cyrell McLemore of my office at (312) 886-1625.

Sincerely,

A handwritten signature in cursive script, appearing to read "Marisol R. Simón".

Marisol R. Simón

STATE OF MINNESOTA
IN COURT OF APPEALS

FILED

October 5, 2011

OFFICE OF
APPELLATE COURTS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

vs.

Minnesota Department of Transportation,

Respondent.

ORDER

A11-1345

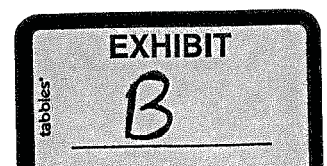
A11-1386

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. In an order filed on August 12, 2011, we consolidated these certiorari appeals from a decision issued by the Minnesota Department of Transportation on June 30, 2011, determining the need for an environmental-impact statement.

2. Relators' briefs are due on October 6, 2011, which is 30 days after the itemized list of the contents of the record was served on September 6, 2011. *See* Minn. R. Civ. App. P. 115.04, subd. 4.

3. On October 3, 2011, the parties filed a joint motion to modify the briefing schedule. The parties state that the extension is warranted due to recent developments that may require the disputed project to undergo further environmental analysis as part of



a federal environmental-impact statement. The parties request that the time for relators to file their briefs be extended until November 4, 2011.

4. In view of the possibility that the appeal may become moot, we will grant the requested extension.

IT IS HEREBY ORDERED:

1. The parties' motion to modify the briefing schedule is granted.
2. Unless the appeals are dismissed, relators' briefs shall be served and filed by November 4, 2011.
3. Briefing shall continue pursuant to Minn. R. Civ. App. P. 131.01.

Dated: October 5, 2011

BY THE COURT

/s/
Matthew E. Johnson
Chief Judge

STATE OF MINNESOTA
IN COURT OF APPEALS

FILED

November 3, 2011

OFFICE OF
APPELLATE COURTS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

vs.

Minnesota Department of Transportation,

Respondent.

ORDER

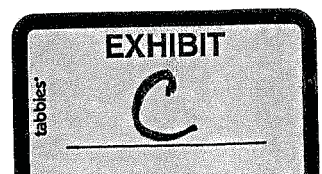
**A11-1345
A11-1386**

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. In an order filed on August 12, 2011, we consolidated these certiorari appeals from a decision issued by the Minnesota Department of Transportation on June 30, 2011, determining the need for an environmental-impact statement.

2. Relators' briefs initially were due on October 6, 2011, which was 30 days after the itemized list of the contents of the record was served on September 6, 2011. *See* Minn. R. Civ. App. P. 115.04, subd. 4.

3. On October 3, 2011, the parties filed a joint motion to extend relator's briefing deadline until November 4, 2011, because of recent developments that may require the disputed project to undergo further environmental analysis for a federal



environmental impact statement. In an order filed on October 5, 2011, we granted the requested extension.

4. On October 28, 2011, the parties filed a joint motion for a second extension that would make relators' briefs due on December 2, 2011. The motion states that the parties anticipate that many of the details about whether and how the additional analysis for a federal environmental impact statement will be performed will become clearer over the next month.

5. It appears that judicial economy will be served by granting a second extension and that the parties' resources may be conserved.

IT IS HEREBY ORDERED:

1. The parties' joint motion to extend the briefing schedule is granted.
2. On or before December 2, 2011, relators shall file their briefs.

Dated: November 3, 2011

BY THE COURT

/s/

Matthew E. Johnson
Chief Judge



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

MICHAEL O. FREEMAN COUNTY ATTORNEY

December 19, 2011

VIA ELECTRONIC MAIL

Patrick Whiting
Assistant Attorney General
Minnesota Attorney General's Office
Bremer Tower, Suite 1800
445 Minnesota Street
St. Paul, MN 55101-2134

Dear Pat:

This is to notify you that the Board of the Hennepin County Regional Railroad Authority passed the following resolution today:

"BE IT RESOLVED, that the HCRRA Board directs staff to notify the Minnesota Department of Transportation that, in light of direction from the Federal Transit Administration regarding the Southwest LRT project (and only for purposes of completing the Southwest LRT project): (1) the Hennepin County Regional Railroad Authority has determined that freight rail relocation no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project under state law; (2) HCRRA will amend the DEIS to include freight line relocation in the scope of the Southwest LRT project; and (3) freight rail location either to the MN&S corridor or within the Kenilworth Corridor will be included as an element of that overall Southwest LRT project that will be subject to environmental review under state and federal environmental law."

Sincerely,

HOWARD R. ORENSTEIN
Sr. Assistant Hennepin County Attorney
Telephone: (612) 348-4618
FAX: (612) 348-8299



Minnesota Department of Transportation

395 John Ireland Boulevard

Saint Paul, MN 55155

December 20, 2011

To Whom It May Concern:

RESOLUTION

WHEREAS, a project consisting of track improvements to the existing Canadian Pacific (CP) Bass Lake Spur, CP Minneapolis, Northfield & Southern (MN&S) Spur, and the Burlington Northern Santa Fe (BNSF) Wayzata Subdivision in the City of St. Louis Park was proposed to accommodate the relocation of the Twin Cities and Western (TC&W) freight rail traffic currently operating in the Kenilworth Corridor in Minneapolis (Proposed Freight Project); and

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) was the Proposer of the Proposed Freight Project, as the term "Proposer" is defined by Minn. R. 4410.0200, subp. 68 (2011); and

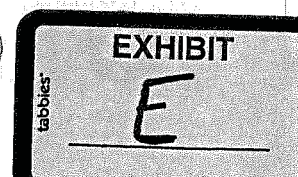
WHEREAS, the Minnesota Department of Transportation (MnDOT) was the Responsible Governmental Unit (RGU) for the Proposed Freight Project pursuant to Minn. R. 4410.0500, subp. 2 (2011), and as the term "RGU" is defined by Minn. R. 4410.0200, subp. 76 (2011); and

WHEREAS, MnDOT prepared an Environmental Assessment Worksheet (EAW) for the Proposed Freight Project pursuant to Minn. R. 4410.1400 (2011), and as the term "Environmental Assessment Worksheet" is defined by Minn. Stat. § 116D.04, subd. 1a(c) (2011) and Minn. R. 4410.0200, subp. 17 (2011); and

WHEREAS, MnDOT published notice of the completion of the EAW for the Proposed Freight Project and provided copies of the EAW to the Minnesota Environmental Quality Board and its member agencies, and received and responded to comments on the need for an Environmental Impact Statement (EIS) following publication pursuant to the requirements of Minn. Stat. § 116D.04, subd. 2a(b) (2011), Minn. R. 4410.1500 (2011); Minn. R. 4410.1600 (2011); and

WHEREAS, MnDOT determined that the Proposed Freight Project does not have the potential for significant environmental impact pursuant to Minn. R. 4410.1700 (2011); and

An Equal Opportunity Employer



WHEREAS, MnDOT determined that an Environmental Impact Statement (EIS) was not required pursuant to the Minnesota Environmental Protection Act, Minn. Stat. § 116D.01, et seq. (MEPA), and accordingly issued and distributed a Negative Declaration on June 30, 2011, pursuant to Minn. R. 4410.1700 (2011); and

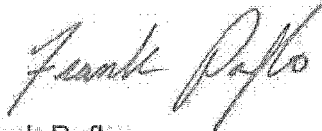
WHEREAS, on December 19, 2011, the HCRRA Board passed a resolution determining that the Proposed Freight Project no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project;

NOW THEREFORE, MnDOT hereby vacates the EAW for the Proposed Freight Project; and

NOW THEREFORE, MnDOT hereby vacates its Negative Declaration for the Proposed Freight Project; and

NOW THEREFORE, because the Proposed Freight Project is no longer being pursued as a standalone project by the Proposer, environmental review as a standalone project is no longer required; and

NOW THEREFORE, if any other project is proposed in the future, the need for a new environmental review will be evaluated in accordance with the provisions of the Minnesota Environmental Policy Act.



Frank Pafko
Chief Environmental Officer
Minnesota Department of Transportation

An Equal Opportunity Employer



STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

AFFIDAVIT OF SERVICE

City of St. Louis Park,

Relator (A11-1386),

v.

Appellate Court Case Nos.

A11-1345

Minnesota Department of Transportation,

A11-1386

Respondent.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Thaddeus R. Lightfoot, being first duly sworn and upon oath, deposes and states as follows:

I hereby certify that I provided for service by messenger a copy of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss and a copy of the Affidavit of Thaddeus R. Lightfoot in Support of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss, with exhibits, and directed the messenger to personally deliver the documents on the 10th day of January, 2012, on the following:

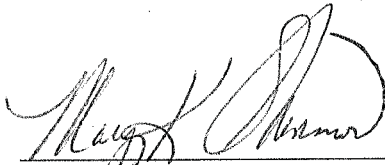
Patrick Whiting
Assistant Attorney General
Office of the Minnesota Attorney General
445 Minnesota Street, Suite 1800
St. Paul, MN 55101-2134

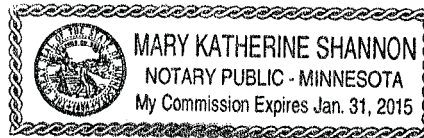
Thomas M. Scott
Campbell Knutson
1380 Corporate Center Curve, Suite 317
Eagan, MN 55121

This affidavit is dated and given this 10th day of January, 2012.


Thaddeus R. Lightfoot

Subscribed and sworn to before me
this 10th day of January, 2012.


Notary Public



ENVIRONMENTAL LAW GROUP

THADDEUS R. LIGHTFOOT
DIRECT DIAL: 612/623-2363
E-MAIL: TLIGHTFOOT@ENVIROLAWGROUP.COM

January 10, 2012

BY HAND

Clerk of Appellate Courts
Minnesota Court of Appeals
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King, Jr. Boulevard
St. Paul, MN 55155

Re: *Jami Ann LaPray, et. al & City of St. Louis Park v. Minnesota Department
of Transportation*
Appellate Court Case Nos. A11-1345, A11-1386

Dear Clerk of Appellate Courts:

Please find the following enclosed:

- 1) an original and four copies of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss;
- 2) an original and four copies of Affidavit of Thaddeus R. Lightfoot in Support of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss, with exhibits; and
- 3) an Affidavit of Service.

Please call me immediately should you have questions. Thank you for your assistance.

Sincerely,



Thaddeus R. Lightfoot

TRL/mks
Enclosures
Cc: Service List