

Southwest Transitway DEIS Comments

Comments Received from Agencies and Other Public Entities

Part 2 of 4



December 14, 2012

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

SUBJECT: Southwest LRT DEIS Comments

To Whom It May Concern:

The City of Minnetonka has reviewed the Southwest Transitway Draft Environmental Impact Statement. Attached you will find the city's comments and concerns regarding the Southwest LRT line.

We appreciate the opportunity to review the DEIS, to provide comments, and look forward to continuing to work with you and the Metropolitan Council on this project.

Sincerely,



Julie Wischnack, AICP
Community Development Director

Enclosure

Chapter Two: Alternatives Considered			
Page	Issue	Why is this an issue	Proposed alterative/mitigation
2-32	A total of 250 surface parking spaces are shown at the Shady Oak Road Station	Varying numbers have been proposed previously, but typically it has been 350 parking stalls	More work needs to be completed to better define these numbers. Collaboration between the SWLRT project and the Community Works project needs to occur in order to make sure there is consistency among all components of the project.
2-32	The park and ride locations and size of facilities need to be further explored.	The city anticipates that with the size of the park and ride at the Shady Oak station, the park and ride facility will need to be structured. Access directly off Excelsior Boulevard may cause congestions and an alternate access must be explored for consideration.	The exact location of the park and rides and potential for shared parking with the surrounding development, as well as the exact size, and whether the facility is surface or structure must be explored further as part of the project.
2-50 to 2-51	Traction Power Substations, Signal Bungalows, and any other signal cabinets	Location, design, placement and screening is unknown.	The location, placement, and screening of the Traction Power Substations and other signal cabinets must be closely coordinated with the City of Minnetonka. This equipment must be located, screened, and designed as appropriate to avoid impacts to existing and future developments.
2-53	No mention that Minnetonka is an opt-out community	While Minnetonka is an opt-out that utilizes Metro Transit for its service, it has a contract to do so. If the contract were to be cancelled, then the bus services may be modified.	Add language or acknowledge Minnetonka's status as an opt-out community

Chapter Three: Social Effects			
Page	Issue	Why is this an issue	Proposed alternative/mitigation
3-7	Land Use descriptions along the corridor	There is no mention as to when the land use plan used to describe this section was adopted.	As land use plans periodically change, it is important to note which year the plan was adopted that was used for this evaluation.
3-23	In the City of Minnetonka Comprehensive Plan, the summary lists the Golden Triangle	The Golden Triangle is located in Eden Prairie- not Minnetonka.	The words Golden Triangle should be removed and replaced by Opus.
3-23	Table on page 3-23	The City of Minnetonka section summary inaccurately describes the Opus area as the Golden Triangle.	Change to reflect "Opus Area"
Section 3.2	Neighborhood Community Services and Community Cohesion Impacts	This section contains relevant community information and data. The data is however, not translated into how any of the LRT alignments would affect local community services or cohesion. In alignment LRT 3A, the Opus and Shady Oak area, in particular, would generally be underserved but ready for additional opportunities. The LRT 1A alignment, Rowland and Highway 62 station area in Minnetonka would likely disrupt community services and cohesion. The planning for additional impacts around these stations is not planned in the City's comprehensive plan.	Show how LRT alignments would affect local community services or cohesion.

3-38	Mitigation during the construction period	The DEIS states that more specific plans will be developed later for mitigation for businesses and residents. Because of the length of time for construction it is important that these plans are thoroughly developed and communicated before construction begins.	As plans are developed, consult with local businesses and residents about the plans to make sure they are on track. Once plans are developed and during construction, clearly communicate them to the businesses and residents. There should be some discussion about support for businesses along the line, such as the "Open to Business" program.
3-57	Segment 3, the DEIS notes that the LRT is not expected to affect community connectivity-- including trails and roadway.	Opus has a pedestrian network of nearly 6 miles of trails. Appendix F shows multiple trail segments being removed as part of the project.	See comments for Appendix F.
3-68	Section 3.3.1 - The last line of the paragraph and the bullet points are in this section and also in Section 3.3.5.	Exact information is duplicate. It seems more appropriate in Section 3.3.5 since 3.3.1 is about legal and regulatory review and 3.3.5 is about acquisition and relocation.	Delete the line and bullet points from section 3.3.1 and leave it in 3.3.5 where it is more appropriate.
3-72	Section heading does not seem appropriate or the subject matter.	While there is some discussion in the section about mitigating or lessening impacts, the main subject matter of the section is Acquisition.	Change the heading of the section to "Acquisition".
3-84 to 3-86	There is a Restrictive Covenant on property PID 3611722210002 which states the property must only be used for parkland and open space purposes.	The current alignment shows LRT through part of this parcel.	Appropriate approvals to have the alignment through this area will need to be obtained from the City of Minnetonka and any other relevant parties.
3-84 to 3-86	The city has a Declaration of Tree Preservation Easement on the property located at 5450 Feltl Road (PID: 3611722220010).	The plan appears to propose track installation and grading as well as realignment of Smetana Rd and Feltl Rd within the easement area.	Appropriate approvals to have the alignment through this area will need to be obtained from the City of Minnetonka and any other relevant parties.
3-84 to 3-86	The city has a Conservation Easement on the property located at 5101 Nolan Drive (PID: 2611722440106).	The plan appears to propose a bridge through the east side of the conservation easement.	Appropriate approvals to have the alignment through this area will need to be obtained from the City of Minnetonka and any other relevant parties.

<p>3-112</p>	<p>"North of Smetana Road the alignment is on a bridge to cross over ponds and existing freight rail lines. The proposed structure, along with catenary poles and wires, could have substantial visual impacts on sensitive receptors in the multi-family residential development on the east side of the corridor."</p>	<p>Documents only the multi-family residential on the east side of the LRT alignment north of Smetana Road and the visual impacts to those properties.</p> <p>The rail line, catenary poles and wires will have a negative visual impact, in addition to potential negative environmental impacts, adjacent to the multi-family residential developments to the north (Deer Ridge Townhomes) and South (Claremont) of Smetana Road with LRT 3A. As acquisition of land will be needed to route the corridor through these residential areas, the primary viewers will be residents and Opus trail users. Adjacent to the Claremont, existing vegetation is comprised of high quality tree resources and although mostly deciduous, removal will decrease existing buffering during leaf-on conditions and provide even less buffering during leaf-off season. Although the corridor elevation is lower than the residential buildings south of Smetana Road, attention to aesthetic should not be underestimated.</p> <p>Generally LRT 1A would have negative visual impacts on existing single family residential neighborhoods and Minnesota River Bluffs LRT Regional Trail Users.</p>	<p>Mitigate the additional visual and potential impacts to residential properties.</p>
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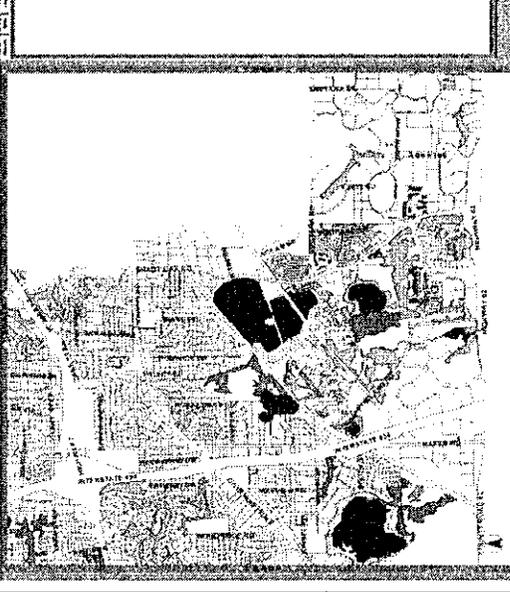
Chapter Four: Environmental Effects

Page	Issue	Why is this an issue	Proposed alternative/mitigation
4-2	Section 4.1.1 The incorrect daily amount was stated under the regulation for a waters appropriations permit.	<p>Per the MN DNR's website Minnesota Statute 103G.265 requires the Department of Natural Resources to manage water resources to ensure an adequate supply to meet long-range seasonal requirements for domestic, agricultural, fish and wildlife, recreational, power, navigation, and quality control purposes. The Water Appropriation Permit Program exists to balance competing management objectives that include both development and protection of Minnesota's water resources.</p> <p>A water use permit from DNR Waters is required for all users withdrawing more than 10,000 gallons of water per day or 1 million gallons per year.</p> <p>There are several exemptions to water appropriation permit requirements: domestic uses serving less than 25 persons for general residential purposes, test pumping of a ground water source, reuse of water already authorized by a permit (e.g., water purchased from a municipal water system), or certain agricultural drainage systems (check with your area hydrologist for applicability).</p>	The accurate number of gallons per day should be reflected in the final EIS.

<p>4-21, 4-23, 4-24 and page 196 of appen dix H</p>	<p>Ensure that any permanent water removal does not result in negative impacts to ground water or surface waters.</p>	<p>Sections 4.1.4.2 - States there is a possible need for permanent water removal at both segments 1 and 3 and possibly a second area. Mitigation sections (4.1.6) lists methods to minimize impacts and Appendix H (page 196) indicates the permanent water removal or the cut below the water table will not impact wells since the closest well is at least 800 feet away. It further states that if water is diverted into or away from wetlands that the work will be engineered to minimize the impacts.</p>	<p>The engineering should be designed to prevent any impacts versus minimizing them.</p>
<p>4-24 to 4-44</p>	<p>Section 4.2, Water Resources, does not recognize Minnetonka's ordinances or regulation as it relates to wetlands, floodplains, shorelands, storm water management or grading and erosion control except in Table 4.2-1 which identifies Minnetonka as being the LGU under the WCA and references Minnetonka's role in project review and approval. It should also be noted that the city has a tree protection ordinance.</p>	<p>Appropriate permits must be acquired and mitigation strategies must follow the city's rules. For example Section 4.2.2.2 on page 4-32 discusses mitigation strategies for impacts to wetlands. Since the DEIS does not recognize that Minnetonka has a wetland ordinance that requires wetland mitigation in the amount of 1:1 for any amount of wetland fill (no De minimis), wetland mitigation is not mentioned as a strategy to offset the impacts.</p>	<p>Section 4.2.1.5--Local: Cities (page 4-28) - speaks in detail to Eden Prairie's regulation and mentions Mpls', Minnetonka's and St. Louis Park's. This section should be more developed to recognize each community's regulation to ensure appropriate planning and compliance. For example, Minnetonka has a grading and erosion control ordinance triggered by land disturbance of area encompassing 5,000 square feet or 50 cubic yards, that requires compliance with specific standards and the installation and maintenance of best management practices. The city's floodplain ordinance does not allow compensatory water storage to be located in an area of regulated trees. The city views the removal of trees to provide compensatory water storage as a mismanagement of natural resources.</p>

			<p>Section 4.2.2.1 100-year Floodplain (page 4-30) and Figure 4.2-2 (page 4-31) does not recognize the city's 100-year flood areas. This is problematic if fill or alteration occurs.</p> <p>Figures 4.2-3 and 4.2-4 and 4.2-5 (pages 4-36 through 4-38) may not have the city's 100-year flood elevations identified.</p> <p>Although tree impacts are not covered in this section it should be noted that Minnetonka has a tree protection ordinance that regulates tree removal and mitigation.</p> <p>Section 4.2.2.2 Wetlands, Streams and Lakes (page 4-32)- Minnetonka's ordinances relating to wetlands and shorelands are not identified and therefore necessary permits at the local level may not be acquired and appropriate mitigation may not occur. As previously stated, Minnetonka has a wetland ordinance that requires any wetland fill to be mitigated at a rate of 1:1, wetland mitigation is not mentioned as a strategy to offset impacts.</p> <p>Table 4.2-2 (page 4-34) Minnetonka should be added as a permitting agency for wetland and floodplain areas.</p> <p>Section 4.2.4 Short Term Construction Effects (page 4-42) Compliance with Minnetonka's regulation and storm water regulation will be required.</p>
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			<p>Section 4.2.5 Mitigation (page 4-43) Recognize local rules so appropriate permitting and compliance can be achieved.</p>
4-28	<p>The City of Minnetonka requires a grading and erosion control permit for land disturbance greater than 5,000 square feet or 50 cubic yards</p>	<p>The City of Minnetonka has a city ordinance requiring such a permit to be obtained</p>	<p>Section 4.2.1.5-- Local: Cities Insert the following language into this section: "The City of Minnetonka requires a grading and erosion control permit for land disturbance activities that are greater than 5,000 square feet or 50 cubic yards."</p>
4-30	<p>The City of Minnetonka's Water Resource Management Plan (WRMP) has identified and regulates additional floodplain areas, outside of FEMA floodplain</p>	<p>The City of Minnetonka has a Floodplain District ordinance requiring floodplain areas identified by FEMA and the city's WRMP be regulated. The ordinance requires any fill be mitigated at a one to one ratio. The 100-year floodplain areas mapped under the city's WRMP can be obtained on the city's website or via a request for the city's GIS layer</p>	<p>Section 4.2.2.1 100-year floodplain and Section 4.2.3.1 Floodplains Include floodplain information from the City of Minnetonka's WRMP in the analysis of floodplain impacts.</p>
4-31 and 4-36 through 4-38	<p>Proper identification of forest resources on Figures 4.2-2, 4.2-3 and 4.2-4 and 4.2-5.</p>	<p>It does not appear that the referenced Figures accurately illustrate the deciduous forests, specifically the oak woodland, and brushland behind the Claremont Apartments just north of the proposed Opus station.</p>	<p>Re-evaluate the segments and identify and map the existing forest resources.</p>

4-47	<p>Figure 4.3-1 - It is difficult to see if all of the Minnesota Land Cover Classification System (MLCCS) remnant communities are depicted in this map because the resolution is poor. In Minnetonka there are several areas; a tamarack swamp SE of Glen Lake, semi permanently flooded cattail marsh E of Lake Minnetoga and an oak woodland brushland SW of the Conservatory Apartments. Additionally there are several other emergent wetland communities.</p>	<p>If the MLCCS designated remnant communities are not included, potential impacts and restoration will not be addressed.</p>	<p>Confirm that the MLCCS information is recorded and provide a map with higher resolution or provide maps of these communities for each city so the information can be reviewed.</p> <p>Attached is map reflecting Minnetonka's MLCCS for the area.</p> 
4-52	<p>4.3.3.2 Native Habitats, Table 4.3-1 - In the comments under alternative 3A it is not clear if the MLCCS designation of oak woodland brushland located southwest of the Claremont Apartments and north of the Opus Station is included.</p>	<p>If it is not included potential impacts and restoration will not be addressed.</p>	<p>Confirm that it is recorded in the existing conditions.</p>

4-53	Invasive species management plan mentioned in sections 4.3.3.4 Invasive Species, 4.3.4 Short-Term Construction Effects, and 4.3.5 Mitigation	Minnetonka is involved in restoration activities of natural habitats. The city appreciates the foresight in developing an invasive species management plan and would like to review the final plan.	Provide plan for city review and approval.
4-54 and 4-55	Is the summary depicting the potential impacts for Minnetonka's habitats if the city's existing MLCCS designated remnant communities are not accurately reflected in the existing conditions?	If the communities are not accurately included potential impacts and restoration will not be addressed.	Confirm that Minnetonka's MLCCS designated remnant communities are accurately recorded in the existing conditions.
4-61	Section 4.4.4 Long-Term Effects, the tamarack swamp located SE of Glen Lake is not identified.	If it is not identified how will the impacts be evaluated?	Determine if the alignment for LRT 1A will have any potential impacts to this resource.
4-103	Noise related to horns and bells at all at-grade crossings	Impacts to adjacent residents.	Quiet zones should be considered for implementation at all at-grade crossings to eliminate noise from bells and horns.
4-103 to 4-104	"Construction contractors <i>should</i> be required to develop a noise mitigation plan" and discusses what should be included.	The plan MUST be developed and include requirements from the city.	City must be involved in approval of the Construction Noise Mitigation Plan steps and approvals prior to work beginning.
4-118	DEIS references final EIS that is not yet completed.	Mitigation measures will be based on this document.	City needs an opportunity to review and provide input on findings.
4-119 and 4-127	On-going maintenance practices associated with light rail.	Section 4.9 discusses Hazardous and Contaminated Materials. The collection and disposal of oils, grease and other wastes is documented in the Draft EIS. Will salt be used during winter snow removal operations? If so, how will the amounts be monitored? Both Minnehaha and Nine Mile Creek are chloride impaired so salt use may be an issue.	Address the use of salt in the final document.

Chapter Five: Economic Effects

Page	Issue	Why is this an issue	Proposed alternative/mitigation
Section 5.2	Station Area Development	Environmental Metrics – Concur with the report that LRT 1A is inconsistent with the Minnetonka Comprehensive Plan. If selected, recreating transit-friendly station areas west of the Shady Oak Station would pose significant challenges given the existing land use pattern and transportation systems.	None—concur with the report.
Section 5.2	Station Area Development	Environmental Metrics – LRT 1A and 3A for Shady Oak Station Area. The Short-term impacts described in Section 5.2.2 make no mention that this station is essentially “land-locked” by private land holdings. The document does not identify in any generality how these issues impact station area development.	Access and landownership issues identified in the DEIS will need a resolution in order for the Shady Oak station to come on-line.

Chapter Six: Transportation Effects

Page	Issue	Why is this an issue	Proposed alternative/mitigation
6-53	Figure 6.3-2 does not reflect all trails in Opus and along Shady Oak Road.	The Opus trails need to be documented as they are important for connectivity to/from the proposed station and the businesses and residential in the area. The LRT will impact some of these trails as shown in Appendix F.	Document all trails.

Chapter Nine: Indirect Effects and Cumulative Impacts

Page	Issue	Why is this an issue	Proposed alternative/mitigation
9-37, 9-38, 9-39	DEIS states that no mitigation is required for Transit Effects, Effects on Roadways and Other Transportation Effects including trails.	Effects to local transportation systems affected by the Southwest LRT must be included as a part of the overall study for potential improvements needed to eliminate increased congestion and impacts. DEIS states that because the indirect effects and cumulative impacts are expected to be beneficial, no mitigation is needed. Impacts could require substantial dollars for improvements.	Study area limits must be reviewed and defined with the city to determine overall impacts to local infrastructure systems.

Chapter Twelve: Public Agency Coordination and Comments

Page	Issue	Why is this an issue	Proposed alternative/mitigation
12-4 and 12-15	Minnetonka has regulations not identified in Table 12.2-2 Preliminary List of Required Permits. These include wetland, floodplain, shoreland, erosion control, steep slope and tree protection ordinance as well as stormwater regulation.	The appropriate permits may not be acquired at the local level.	Include the above referenced Minnetonka items in the list of permits to be obtained.

Appendix F- Part 1: Conceptual Engineering Drawings

Page Number	Issue	Why is this an issue	Proposed alternative/mitigation
38	The SWLRT alignment must go under (cut and cover) TH 62 rather than go over TH 62 as proposed.	<p>Going over TH 62 would:</p> <ol style="list-style-type: none"> 1) Limit the city's flexibility with much needed local roadway improvements and potential realignments within the Opus II Business Park. 2) Provide for a non-desirable connection and layout for the City West Station in the City of Eden Prairie due to existing topography. 3) Eliminates the opportunity to provide a trail linkage between the Opus II Business Park and the United Health Group Campus (located on the south side of TH 62). Having an elevated track through this area would preclude this opportunity. 	The SWLRT alignment must go under (cut and cover) TH 62 rather than go over TH 62 as proposed.
38-39	Design refinements must shift the SWLRT alignment of the line slightly to the south/west near TH 62.	The city, MnDOT and property owners within Opus II Business Park have made significant investments in making transportation improvements to the interchange at US 169 and Bren Road. In the long term additional access into and out of the business park will be needed in order to provide acceptable Level of Service (LOS) at the existing interchange. One option suggested for consideration by MnDOT was a set of ramps from TH 62 into the Opus Business Park. The ramps would be for westbound traffic entering the site and for eastbound traffic leaving the site. The alignment shown for SWLRT in this area would preclude constructing these ramps in the future.	Shift the SWLRT alignment slightly to the south and west to allow for the ramps to be constructible in the future and not interfere with light rail operations.

39	Minnetonka agrees with the recommendation eliminating the trail crossing of the light rail line and Red Circle Drive south of Opus station, however the limits must be revised.	A portion of the trail located at the western edge of the property, west of the proposed alignment, must remain to maintain connectivity. Without this segment, it removes the connectivity on the west side and increases the travel distance of pedestrians and bicyclists from the station to properties southwest.	Leave a portion of trail in place near Red Circle Drive currently shown for removal. It will allow construction of a parallel trail connection on the west side of the SWLRT line in the future.
39	The DEIS does not indicate how the new trail segment proposed to connect Opus station to the trails west of the north-south segment of Bren Road East will cross.	With the expected increase in traffic volumes on the roadways and additional pedestrian foot traffic, the city is concerned that an at-grade crossing in this location could pose a safety challenge.	A grade separated crossing of the roadway for the trail crossing at this location, and all others must be proposed within the Opus II Business Park.
39	For the trail area north of Bren Road W and the Opus station, the DEIS shows removal of trail segments west of the LRT alignment near Bren Road. The trail removal eliminates connection to properties east of the LRT line creating a gap between the underpass at Bren Road West and the trail network along Green Circle Drive.	The SWLRT project creates a trail gap without constructing a parallel north-south trail segment on the east side of the transit line. Connectivity that existed prior to the project would not be maintained.	As part of the preliminary design and FEIS, Metro Transit must replace the trail on the east side to bring more parcels and properties into a half mile walk and a two mile bike of Opus station. All trail segments proposed for removal and replacement as a part of the project must be reviewed to maintain connectivity that existed prior to the project.
40	The proposed LRT crossing and intersection reconfiguration at Smetana Road and Feltl Road is not acceptable.	The proposed reconfiguration switches the through movement of Smetana Road, the higher functionally classified roadway with heavier traffic volumes, to Feltl Road, the roadway with lower functional class and lower traffic volumes. It also creates additional SWLRT crossings that could be reduced.	There are other alternatives available that would preserve the alignment and through movement of Smetana Road, yet limit the number of at-grade crossings. The city requires that the FEIS and preliminary engineering develop and evaluate other concepts for this intersection acceptable to the city.

42	The curve of the alignment just west of the Shady Oak station (curve taking the alignment to the south)	The city has been informed that this curve may change in the future, which will impact redevelopment plans for the area.	Changes in the alignment from what is shown in the DEIS should immediately be discussed with the city and the city reserves the rights to provide comments on the new alignment.
Appendix F page 42-43	The proposed location of the Shady Oak station platform is currently landlocked as it exists today. The city assumes that 17 th Avenue in Hopkins will need to be expanded south as part of the project in order to access the station.	The city has identified secondary access points into the station area as a key issue, as one access point is likely unable to accommodate the anticipated demand of this station.	Secondary access points from 47 th Street West, 5 th Street/K-Tel Drive and Shady Oak Road should be considered, as well as how the reconstruction of Shady Oak Road from Excelsior Boulevard to Highway 7 will function given the proximity to the station.

Appendix H – Part 1: Supporting Technical Reports and Memoranda

Page	Issue	Why is this an issue	Proposed alternative/mitigation
4-21, 4-23, 4-24 and page 196 of appendix H	Ensure that any permanent water removal does not result in negative impacts to ground water or surface waters.	<p>4.1.4.2 - States there is a possible need for permanent water removal at both segments 1 and 3 and possibly a second area.</p> <p>Mitigation sections (4.1.6) lists methods to minimize impacts and Appendix H (page 196) indicates the permanent water removal or the cut below the water table will not impact wells since the closest well is at least 800 feet away. It further states that if water is diverted into or away from wetlands that the work will be engineered to minimize the impacts.</p>	The engineering should be designed to prevent any impacts versus minimizing them.

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Where quality is our nature
14600 Minnetonka Boulevard, Minnetonka, Minnesota 55345-1597

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Michael Hayman
<MHayman@minnehahacreek.org>

12/21/2012 11:26 AM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>

cc

bcc

Subject Southwest Transitway Draft Environmental Impact Statement
Comment

Find attached the Minnehaha Creek Watershed District's comments regarding the Southwest Transitway Draft Environmental Impact Statement. The comment letter will also be delivered via U.S. Postal Service standard mail.

Please do not hesitate to contact me with any questions.

Michael Hayman
MCWD Planner

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MINNEHAHA CREEK  **WATERSHED DISTRICT**
QUALITY OF WATER QUALITY OF LIFE

December 6, 2012

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

RE: Southwest Transitway Draft Environmental Impact Statement

Dear Hennepin County,

Thank you for the opportunity to review and comment on the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway. The Project consists of construction and operation of a 15-mile light rail transit (LRT) line in the Minneapolis/St. Paul region, connecting downtown Minneapolis to the cities of St. Louis Park, Hopkins, Edina, Minnetonka, and Eden Prairie.

Each alternative alignment contains segments within the MCWD. Nearly the entire length of Segment 4 and Segment Freight Rail Realignment (FRR) are within the boundaries of the MCWD as well as portions of Segment A and Segment C-1. This involves five to six station areas, depending on the alternative, and numerous miles of rail.

The Minnehaha Creek Watershed District (MCWD) has regulatory authority over projects that have the potential to impact water resources. The MCWD regulates for Erosion Control, Floodplain Alteration, Wetland Protection, Dredging, Shoreline Stabilization, Waterbody Crossings and Stormwater Management. The MCWD is also the Local Government Unit for the MN Wetland Conservation Act that regulates wetland impact. As such, the MCWD recommends early and ongoing coordination between the Project Office and MCWD to determine specific regulatory requirements for this project.

In addition to its regulatory capacity, the MCWD has a capital improvement program and grant programs to implement projects that manage water quality, quantity and overall ecosystem integrity. Currently, the MCWD is engaged in the planning and implementation of a number of projects in partnership with public and private entities to improve the riparian corridor of Minnehaha Creek between Highway 169 and Meadowbrook Golf Course in Hopkins and St. Louis Park.

These projects have the potential to be impacted, positively or negatively, by the Southwest Transitway. Therefore, the MCWD encourages Hennepin County and the Project Office to engage the District early and often to integrate the planning and implementation efforts of each party, thereby maximizing the identification of holistic solutions to transit, economic development, community livability and environmental improvement.

The Minnehaha Creek Watershed District is committed to a leadership role in protecting, improving and managing the surface waters and affiliated groundwater resources within the District, including their relationships to the ecosystems of which they are an integral part. We achieve our mission through regulation, capital projects, education, cooperative endeavors, and other programs based on sound science, innovative thinking, an informed and engaged constituency, and the cost effective use of public funds.

The Minnehaha Creek Watershed District is currently in various stages of planning and implementation of the following projects in coordination with project partners:

- Cottageville Park Expansion
 - Includes regional stormwater management for Blake Rd. drainage

- Redevelopment of 325 Blake Road
 - Could include regional stormwater management for approximately 235 acres of St. Louis Park, Hopkins and Edina

 - Could include regional stormwater management for approximately 100 acres west of Blake Road, including the Blake Road station area

 - Includes community greenway along Minnehaha Creek, connecting 325 Blake Road with downstream stretches of Minnehaha Creek, the existing SW LRT trail, Methodist Hospital, and both the Blake Road and Louisiana Avenue stations

 - Includes redevelopment of 11 to 13 acres of creekside property adjacent to the Blake Road Station

- Realignment of Reach 20 on Minnehaha Creek
 - Could include regional stormwater management for approximately 25 acres including the Louisiana Station area

 - Includes regional stormwater management of approximately 75 acres of drainage from Excelsior Blvd., Interlachen Park and Meadowbrook Manor

 - Includes trail and boardwalk along the Minnehaha Creek corridor connecting Methodist Hospital – Louisiana Avenue – Meadowbrook Manor – Oxford Street – Meadowbrook Road – SW LRT

Given proposed redevelopment of 325 Blake Road and its proximity to the proposed LRT, the District is interested in collaborative and integrated planning to further explore the interaction of the site with LRT, potential greenway linkages between the site and the LRT trail, future traffic patterns along Blake Road, and location and function of the Blake Road Station.

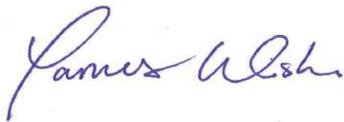
Similarly, the District would welcome close coordination with Hennepin County and the Project Office on the potential reconstruction of the LRT crossing over Minnehaha Creek. Hydraulic capacity, wildlife and human passage through this area are of particular interest to the MCWD.

Finally, the District would encourage Hennepin County and the Project Office to engage in coordinated planning of all station areas within the MCWD to identify collaborative opportunities to manage stormwater runoff in a comprehensive manner. Minnehaha Creek and downstream receiving Lake Hiawatha are listed on the State's 303 (d) list of impaired waters. Based on the Minnesota Pollution Control Agency's draft Total Maximum Daily Load for these waterbodies, the area encompassing the Louisiana and Blake Stations are a large contributing source of pollution, creating opportunity for large scale management and pollution reduction.

Further, if planned and implemented in an integrated manner with LRT and Transitional Station Area Planning, stormwater management projects could be implemented that treat large areas of urban land, potentially offsetting future regulatory requirements for this project and future redevelopment; generating large future cost savings to local municipalities, Hennepin County, Metropolitan Council and the taxpayers at large.

As an active member of the Southwest LRT Community Works Steering and Technical Implementation Committees, the MCWD is committed to working in close coordination with the public and private partners throughout the Project development. The District looks forward to collaboratively exploring the opportunities for water resource and ecological improvement generated by this project and hopes that it can serve as a model for future partnerships in transit projects.

Sincerely,

A handwritten signature in blue ink that reads "James Wisker". The signature is written in a cursive, flowing style.

James Wisker
Director of Planning, Projects and Land Conservation



"Corbett, Michael J (DOT)"
<Michael.J.Corbett@state.mn.us>

12/21/2012 11:49 AM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>,
"Katie.Walker@co.hennepin.mn.us"
cc "Bly, Lynne (DOT)" <lynne.bly@state.mn.us>, "Christianson,
Dave (DOT)" <dave.christianson@state.mn.us>, "Clarkowski,
Lynn (DOT)" <lynn.clarkowski@state.mn.us>, "Coddington,
bcc

Subject RE: DEIS12-003 Southwest Transitway

Hello,

Attached is MnDOT's comment letter on the Southwest Transitway DEIS.

Michael Corbett, PE

MnDOT Metro Division – Planning

1500 W County Road B-2

Roseville, MN 55113

651-234-7793

Michael.J.Corbett@state.mn.us



Minnesota Department of Transportation

Metropolitan District

Waters Edge Building
1500 County Road B2 West
Roseville, MN 55113

Comment #372
Attachment #1

December 20, 2012

Ms. Katie Walker, Project Manager
Hennepin County
Housing, Community Works and Transit
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

SUBJECT: Southwest Transitway Draft EIS
MnDOT Review # DEIS12-003
Hennepin County

Dear Ms. Walker:

Thank you for the opportunity to review the Southwest Transitway Draft Environmental Impact Statement (DEIS). We recognize that the Southwest Light Rail Transit (SWLRT) is a planned backbone element of the Twin Cities regional transitway system and that it will help to increase citizens' access to major regional destinations. Below you will find technical comments regarding material included in the Draft EIS and anticipated future review steps.

Please note that MnDOT's review of this DEIS does not constitute approval of a regional traffic analysis and is not a specific approval for access or new roadway improvements. As plans are refined, MnDOT would like the opportunity to meet with Hennepin County to review the updated information. MnDOT's staff has reviewed the document and offers the following comments:

Freight Rail

MnDOT has been a partner agency in the development of the SWLRT project, and has been involved principally due to its responsibility in several areas. These include State trunk highway infrastructure, bridges, intersections, and contiguous rights of way, railroad grade crossing safety, and support of freight rail system service and continuity, in accordance with the Statewide Multimodal Transportation Plan, the State Rail Plan, and the State Freight Plan.

MnDOT has actively monitored freight relocation issues and initiatives, and was tasked as the Responsible Governing Unit (RGU) in ruling on the validity of the draft St. Louis Park Freight Rail Relocation Environmental Assessment Worksheet (EAW) that was commissioned by Hennepin County in support of the freight rail relocation option.

In reviewing the Draft Environmental Impact Statement (DEIS), MnDOT notes that the Federal Transit Agency (FTA) has directed the Metropolitan Council, through its conditional approval to enter into Preliminary Engineering, to continue the factual determination of the most effective and beneficial routing of freight traffic that is impacted by this project. Consistent with previously stated positions, MnDOT considers the two options, co-location and re-location, to both be potentially workable for freight rail, and should undergo appropriate study to quantify costs and operating aspects as planned by the Project Team during initial phases of the Preliminary Engineering. MnDOT feels that this will adequately satisfy the intent of the FTA condition regarding freight rail routing, serve to positively answer the concerns of the opposing viewpoints in this matter, and reach agreement with the operating freight railroads on the necessary goal of retaining effective connections to the rail freight system.

Noise

It appears that the noise analysis followed the FTA noise analysis and mitigation protocols, thus MnDOT did not perform a detailed analysis on the results. It has been MnDOT's understanding, based on conversations with the Minnesota Pollution Control Agency (MPCA), that LRT is not exempted from addressing the Minnesota State Noise standards nor are they exempted from addressing the Minnesota State Noise Rules (7030 series). If not exempted by the MPCA, State Noise Standards and rules should be addressed.

If you have any questions regarding MnDOT's noise policy please contact Peter Wasko in our Design section (651-234-7681 or Peter.Wasko@state.mn.us).

Water Resources

It appears that drainage permits will be required where the corridor crosses and parallels state roads within MnDOT's right of way. MnDOT expects these determinations will be made when the final design plan is submitted.

Additional information may be required once a drainage permit is submitted and after a detailed review. MnDOT will not allow an increase in discharge to MnDOT right-of-way. Please direct any questions regarding these issues to Hailu Shekur (651-234-7521 or hailu.shekur@state.mn.us) of MnDOT's Water Resources Engineering section.

Design

It is anticipated that all trunk highway impacts will be reviewed and approved through the layout approval process and proposed alterations will use the policy and criteria presented in the MnDOT Road Design Manual. Additional information on MnDOT's Geometric

Design and Layout Development process can be found at:
<http://www.dot.state.mn.us/design/geometric/index.html>

For questions concerning this subject, please contact Nancy Jacobson, (651-234-7647 or nancy.jacobson@state.mn.us) in the Metro Design Section.

Planning

Page 6-47 currently states: “A traffic management plan would be developed and agreed upon by appropriate levels of administration including MnDOT, Hennepin County, and all municipalities along the construction alignment. The plan would include ways to maintain traffic flow, existing transit services, and pedestrian access along each disrupted roadway.”

MnDOT suggests adding bicycle access to the sentence as well since there may be instances where construction will disrupt existing on-street bikeways or trails.

The FEIS should describe the provision of short and long-term bicycle storage and parking near transit stations. Bicycle storage provides an important connection as part of an integrated transportation system and can promote the use of public transportation. The FEIS should investigate the number of bicycle parking spaces needed and the total space required for these facilities at stations and bus stops along the corridor.

Several of the maps contain a roadway labeling error. Minnesota Trunk Highway 7 does not extend east of Highway 100. East of Highway 100, the roadway should be labeled as County Road 25.

Because of the ease of boarding and alighting associated with light rail transit, the SWLRT may be an attractive option for a variety of users including people with mobility challenges. Some may use Metro Mobility to arrive at an LRT station. Consider mobility drop off zones at points where passengers may arrive by mobility bus. A mobility zone assures that should there be any problems with loading or unloading, other mainline buses would not be caught in a queue waiting for the problem to resolve.

Traffic

Both Priority and preemption are mentioned in different places in the document. The type of operation that is chosen will greatly impact the operation of the traffic signals. MnDOT prefers that all the at-grade signals be operated with priority. Please clarify the proposed operation plan.

MnDOT and HCRRA have been and will continue to work on finalizing an agreement that addresses the HCRRA Transportation Corridor which crosses TH100.

Page 6-18: Include: TH212 at Shady Oak Road Interchange Project

Page 6-38: The access to/from Lake Street on TH 7 will be closed (part of the TH7/Louisiana Ave Interchange Project, City of St. Louis Park led Project)

Page 6-61: If the freight rail relocation option is chosen, the timing and duration of TH7 closures will need more discussion as it relates to the construction and impacts of the proposed MN&S bridge over TH 7.

The intersection of Prairie Center Drive and Valley View Road is shown as an at grade intersection. This intersection operates at a Level of Service (LOS) E under the existing conditions. The 2030 LRT build scenarios show that this intersection is proposed to operate at a LOS F. This degradation in service represents an unacceptable level of delay. In addition, operations at three other intersections nearby (Prairie Center Drive and Viking Drive, Valley View Road and Bryant Lake Drive, Valley View Road and Flying Cloud Drive) are expected to have their LOS degraded to LOS E or LOS F in the 2030 build scenario. These LOS conditions have the potential to negatively impact the access ramps to and from TH212 and could potentially affect operations on the TH212 mainline. Please identify the options that have been investigated at the Prairie Center Drive and Valley View Road intersection. Also, identify the tools that have been implemented to better understand the operations of this intersection. MnDOT looks forward to working with the design team to investigate strategies to mitigate these impacts.

The maps showing the sites being considered for the Operations and Maintenance Facility (OMF) are too general, making it difficult for MnDOT and other agencies to get a sense of the types of impacts these facilities may have on roadway operations. In particular, the Eden Prairie 2 (Wallace Road) site could have significant impacts to the Eastbound TH 212/Wallace Road off-ramp if the tracks were to cross this roadway at-grade.

The document references several figures. One set of figures is labeled as alignments and location codes. This figure outlines the proposed route and also identifies all the proposed intersections. This figure describes the intersection crossing as AG (at grade) or GS (grade separated). If these designations change as the project moves forward, MnDOT would like the opportunity to review and comment on these proposed changes.

Please direct any questions regarding these comments to Ryan Coddington (651-234-7841 or ryan.coddington@state.mn.us).

Right-of-Way/Permits

Any use of or work within or affecting MnDOT right-of-way requires a permit. Per the Cooperation Agreement between MnDOT and the Metropolitan Council for SWLRT, the use of MnDOT right-of-way may not require permits, but will require extensive

communication and coordination between the two agencies. It is anticipated that more specific impacts to MnDOT right-of-way will be determined during the FEIS and Preliminary Engineering phases. Permit forms are available from MnDOT's utility website at www.dot.state.mn.us/tecsup/utility. Please direct any questions regarding permit requirements to Buck Craig, MnDOT's Metro Permits Section, at (651) 234-7911.

Thank you for the opportunity to review the Southwest Transitway Draft Environmental Impact Statement.

Sincerely,

A handwritten signature in blue ink that reads "Pat Bursaw". The signature is written in a cursive style with a large initial "P" and "B".

Pat Bursaw
Office of Planning, Program Management, and Transit

Copy via Email:

Lynne Bly
Dave Christianson
Lynn Clarkowski
Ryan Coddington
Buck Craig
April Crockett
Paul Czech
Rick Dalton
John Griffith
Jim Henricksen
Lars Impola
Brian Isaacson
Nancy Jacobson
Carl Jensen
Brian Kelly
Molly McCartney
Gina Mitteco
Tori Nill
Becky Parzyck
Scott Pedersen
Ron Rauchle
Hailu Shekur
Tod Sherman
Aaron Tag
Michael Vogel
Pete Wasko
Ann Braden, Metropolitan Council



"Osborn, Mary (MPCA)"
<mary.osborn@state.mn.us>

12/21/2012 03:42 PM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc "Kromar, Karen (MPCA)" <karen.kromar@state.mn.us>,
"Affeldt, Craig (MPCA)" <craig.affeldt@state.mn.us>,
"Wetzstein, Doug (MPCA)" <doug.wetzstein@state.mn.us>,
bcc

Subject MPCA Comment Letter - Southwest Transitway Draft EIS

Attached are the Minnesota Pollution Control Agency's comments on the Southwest Transitway Draft Environmental Impact Statement. A paper copy will follow by U.S. mail.

Please acknowledge receipt of this comment letter to Karen Kromar at karen.kromar@state.mn.us

Thank you.

Mary Osborn
SSTS/Environmental Review/EQB Support
Minnesota Pollution Control Agency
520 Lafayette Road, 4th Floor
St. Paul, MN 55155-4194
651-757-2101
mary.osborn@state.mn.us



Minnesota Pollution Control Agency

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Comment #377
Attachment #1

December 21, 2012

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

Re: Southwest Transitway Draft Environmental Impact Statement

To Whom It May Concern:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway project (Project) located in Hennepin County, Minnesota. The Project consists of construction of a light rail system between the cities of Minneapolis and Eden Prairie. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

Section 4.1 Geology and Groundwater Resources

For the stream and creek crossing, it would be appropriate to list the In-water best management practices that will be used (page 4-13).

Section 4.2 Water Resources

- Table 4.2.1 – Under permitting for the MPCA, it should state Section 401 of the Clean Water Act, not Section 402.
- Since wetland delineations have yet to be done for the site (page 4-32), comments on impacts to the wetlands and streams and issues about mitigation will require further information.

Section 4.9 Hazardous and Contaminated Materials

Please note that the proposed route of LRT 3A and 3B runs along, and adjacent to, the west boundary of the Hopkins Landfill property. The landfill was not identified in the DEIS as a “potentially contaminated property” although it is included on the Minnesota Pollution Control Agency’s (MPCA) “What’s in My Neighborhood” that is referenced in the DEIS. Groundwater beneath the site is contaminated with arsenic, benzene, and vinyl chloride and the contaminant plume extends to the east and northeast and discharges into Nine-mile Creek. The Groundwater Area of Concern, defined as the area of land surrounding a landfill where the presence of activities that require the use of groundwater may be impacted or precluded by contamination from the landfill, extends west off the landfill property and encompasses the proposed LRT route. In addition, the Methane Gas Area of Concern, defined as the area of land surrounding a landfill waste footprint where the presence of certain activities such as construction of enclosed structures may be impacted or precluded by subsurface migration of methane gas, will extend west off the landfill property and include the proposed LRT route.

The MPCA has concerns about the proximity of the LRT construction to the landfill. First, if dewatering is anticipated for LRT construction, the possibility of encountering contaminated groundwater may exist, depending on depth. The pumping of contaminated groundwater will need to be addressed appropriately. Second, due to the risks associated with methane generation at the landfill, enclosed

December 21, 2012

structures should not be built within 200 feet of the west boundary of the landfill property. Third, if the installation of pilings is anticipated in order to construct a bridge over the wetland west, and the freight-rail tracks northwest, of the landfill property, excessive vibration could negatively affect the operation of the active gas extraction system and could potentially jeopardize the stability of the landfill cover. This issue will require additional evaluation prior to construction. Please contact Shawn Ruotsinoja at 651-757-2683 if you have questions regarding the Hopkins Landfill.

We appreciate the opportunity to review this Project. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this DEIS, please contact me at 651-757-2508.

Sincerely,



Karen Kromar
Planner Principal
Environmental Review Unit
Resource Management and Assistance Division

KK:mbo

cc: Craig Affeldt, MPCA, St. Paul
Doug Wetzstein, MPCA, St. Paul
Jim Brist, MPCA, St. Paul
Shawn Ruotsinoja, MPCA, St. Paul



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Comment #399



Office of Environmental Analysis

December 19, 2012

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

RE: Comments on the Draft Environmental Impact Statement, Southwest
Transitway Project in Minneapolis

Dear Ms. Walker:

Thank you for providing the Draft Environmental Impact Statement (Draft EIS) for our review and comment. As you know, the Surface Transportation Board (Board) is currently involved as a cooperating agency in this environmental review because the Board may have a licensing role over certain aspects of the proposed Southwest Light Rail Project. Our comments on the Draft EIS are attached for your review. If you have any questions or need any further information, please do not hesitate to contact me or Christa Stoebner of my staff by telephone at (202) 245-0299 or email at christa.stoebner@stb.dot.gov. We look forward to working with you in the near future.

Sincerely,



Victoria Rutson
Director
Office of Environmental Analysis

Cc: Marisol Simon, Regional Administrator, FTA, Region V
Maya Sarna, FTA

**SURFACE TRANSPORTATION BOARD
COMMENTS ON THE
SOUTHWEST TRANSITWAY PROJECT
DRAFT EIS**

Board Jurisdiction

Light Rail Transit Line

The proposed construction and operation of a 15-mile light rail transit line connecting downtown Minneapolis to the cities of St. Louis Park, Hopkins, Edina, Minnetonka, and Eden Prairie would not require a license from the Board because the Board does not have jurisdiction over intrastate transportation that is not part of the interstate rail network. 49 U.S.C. § 10501(a)(2)(A); see DesertXpress Enters., LLC--Petition for Declaratory Order, FD 34914 (STB served May 7, 2010). The Board also does not have jurisdiction over mass transportation provided by a local governmental authority. 49 U.S.C. § 10501(c)(2).

Trackage Rights

Alternatives 1A, 3A, 3C-1, and 3C-2 would include the rerouting of existing Twin Cities & Western Railroad Company (TC&W) freight rail service from the Canadian Pacific's (CP) Bass Lake Spur and Hennepin County Regional Railroad Authority's (HCRRA) Cedar Lake (Kenilworth Corridor) to the MN&S Subdivision and BNSF Railway Company's Wayzata Subdivision.

- **Discontinuance of Service.** In order to end freight rail service on a line, any carrier with overhead trackage rights on that line would need to seek discontinuance authority from the Board to be relieved of their common carrier obligation. Accordingly, to end its freight rail service on the Bass Lake Spur and/or the Kenilworth Corridor, TC&W would need to seek discontinuance authority by filing either a petition for exemption pursuant to 49 U.S.C. § 10502 or a full application pursuant to 49 U.S.C. § 10903. A full application is used when there are controversial issues needing Board scrutiny, and a petition for exemption may be used if there is not likely to be any controversy, as it is a more streamlined process. While there appears to be public interest and some controversy over rerouting TC&W traffic to the MN&S line that runs through the City of St. Louis Park, there does not appear to be controversy over TC&W's potential discontinuance of freight rail service over the Bass Lake Spur and/or the Kenilworth Corridor; therefore, a full application would not likely be necessary. The Board usually prepares an Environmental Assessment (EA) for a proposed discontinuance of service over a rail line (except for discontinuances of freight service under modified certificates and discontinuances of trackage rights where the affected line will continue to be operated, which are treated as categorical exclusions that do not need an EA). 49 C.F.R. §§ 1105.6(b) and (c).
- **Trackage Rights.** A rail carrier must obtain Board approval to operate over a line owned by another carrier. See 49 C.F.R. § 1180.2(d)(7). HCRRA's December 10, 2012 Memo (Southwest Transitway Draft Environmental Impact Statement Questions and Responses

for Surface Transportation Board) indicates that TC&W currently has trackage rights over CP's MN&S line. If this were not the case, then TC&W would need to obtain trackage rights authority before rerouting freight traffic to the MN&S line. Trackage rights are categorically excluded from NEPA review under the Board's environmental rules at 49 C.F.R. § 1105.6(c)(4).

Rail Line Abandonments and Discontinuance of Service

Although briefly mentioned in Appendix H on page 16, the DEIS does not appear to discuss or evaluate any rail line abandonment. However, HCRRA's December 10, 2012 Memo (Southwest Transitway Draft Environmental Impact Statement Questions and Responses for Surface Transportation Board) indicates that, if freight rail were to be relocated to the MN&S line, then HCRRA would abandon the Kenilworth Corridor tracks and CP would abandon a portion of their tracks along the Bass Lake Spur.

Board authorization is required to abandon or discontinue service over rail lines that are part of the interstate rail network, pursuant to 49 U.S.C. § 10903. Accordingly, if HCRRA and CP plan to abandon these lines, they would both need to seek abandonment authority for their respective rail lines, and TC&W would need to seek discontinuance authority from the Board pursuant to 49 C.F.R. part 1152. If abandonment authority is granted by the Board, an abandonment extinguishes the common carrier obligation for a rail line, and removes the underlying right-of-way from the Board's jurisdiction.

The Board will normally prepare an EA for a proposed abandonment and discontinuance of service over a line (49 U.S.C. § 1105.6(b)). For environmental reviews of rail line abandonments, the Board's role is limited to the anticipated impacts of the abandonment proposal before the agency: the diversion of traffic to other rail lines or transportation modes and the consequences of removing the track and related structures. Iowa Southern R. Co. – Exemption – Abandonment, 5 I.C.C.2d 496, 501 (1989), aff'd, Goos v. ICC, 911 F.2d 1283 (8th Cir. 1990). The Board's environmental and historic rules at 49 C.F.R. §§ 1105.7 and 1105.8 describe the information needed for the Board's environmental and historic review processes. If the Southwest Transitway EIS is not supplemented to include the information that the Board requires in the appropriate chapters, then the Board would conduct a separate environmental and historic review if and when a proposed abandonment is formally filed with the Board.

Improving, Upgrading, or Realigning an Existing Rail Line

Alternative 3A-1 would include the co-location of the proposed light rail line and TC&W freight rail service on reconstructed freight rail tracks on CP's Bass Lake Spur and HCRRA's Cedar Lake (Kenilworth Corridor). According to pages ES-2, ES-8, and 2-41 of the DEIS, the existing freight tracks would need to be reconstructed to meet BNSF design standards for clearance requirements.

Pursuant to 49 U.S.C. § 10901, a rail carrier must seek Board authority to construct a new line of

rail or to extend an existing line of rail. However, Board approval is not required to improve, upgrade, or realign an existing line without extending the territory or markets that the railroad serves. See Tex. & Pac. Ry. v. Gulf, Colo. & Santa Fe Ry., 270 U.S. 266, 278 (1925); BNSF Ry.—Petition for Declaratory Order, FD 35164 et al., slip op. at 8 (STB served May 20, 2009); Union Pac. R.R.—Petition for Declaratory Order—Rehabilitation of Mo.-Kan.-Tex. R.R. Between Jude & Ogden Junction, Tex., 3 S.T.B. 646 (1998); Denver & Rio Grande W. R.R.—Joint Constr. Project—Relocation Over Burlington N. R.R., 4 I.C.C.2d 95, 97 (1987). Based on the information provided, reconstructing CP’s Bass Lake Spur and HCRRA’s Cedar Lake (Kenilworth Corridor) would not require Board approval.

Spur, Industrial, Team, Switching, or Side Track

Board approval is not required to construct or operate spur, industrial, team, switching, or side track (known as “excepted track”), as long as the purpose and effect is not to extend the railroad’s territory. See 49 U.S.C. § 10906. In addition, Board approval is not required for an acquisition, abandonment, or discontinuance of spur, industrial, team, switching, or side track. See 49 U.S.C. § 10906.

There is no single test for determining whether a particular track segment should be categorized as a line of railroad or as excepted track. Rather, the agency and the courts have adopted a case-by-case, fact-specific approach to make this determination. Primarily, the Board looks at the intended use of a track, and at a track’s physical characteristics.

Connecting Track

Whether or not Board authority would be needed for construction of connecting track depends on whether the connection is proposed for operational efficiency (no authority needed) or to allow the carrier(s) to reach new markets (authority needed).

A carrier can build connecting track that falls outside the Board's jurisdiction if it is just for operational efficiency. In this scenario, constructing connecting track would be akin to double tracking or other track improvements that do not typically require Board authority. Conversely, a railroad can build connecting track that falls under the Board's jurisdiction if the connecting track would reach new markets – just as construction of a new mainline to reach new shippers would require Board authority. Board authority to construct connecting track in this circumstance can be obtained in one of two ways:

- a) The class exemption at 49 CFR 1150.36, which applies if the construction is within existing right-of-way or on land already owned by the railroad.
- b) A construction application under 49 U.S.C. 10901, which applies if the construction is not on an existing right-of-way or land owned by the railroad, or a party argues that the class exemption should not apply in a specific case.

If Board authority to construct the connecting track is sought, NEPA applies. For rail line construction projects, OEA may prepare an EIS, but an EA is typically prepared for construction

cases involving connecting track within existing rail rights-of-way or on land owned by connecting railroads. 49 U.S.C. § 1105.6(b)(1).

Two new connections are mentioned in the DEIS: (1) a connection between CP's Bass Lake line and the MN&S line (across the National Lead/Golden Auto Site) and (2) a connection between the MN&S line and the BNSF Wayzata line. (See pages 1-11, 1-12, 2-8, and 2-27). With regard to the connection between CP's Bass Lake line and the MN&S line, HCRRA's December 10, 2012 Memo states that "there will not be any new markets or territory served because of the reroute. TC&W currently has trackage rights on the CP-owned Bass Lake Spur and the MN&S Spur. By using the reroute, the TC&W would exercise existing rights over the MN&S line." While there currently is no direct connection between the Bass Lake line and MN&S line, there is an existing wye track that currently provides a connection from the Bass Lake line to the MN&S line. HCRRA also states that the wye track has historically been used by TC&W to access the Port of Savage. With regard to the connection between the MN&S line and the BNSF Wayzata line, the DEIS states that "the new connection would likely be used, at least in the near term, in a similar manner as the existing connection, which is to access the BNSF Wayzata Subdivision and more efficiently connect to the east side of town. However, the connection would also provide the flexibility to use other routes to get to the various connections that TC&W uses."

Based on the information provided, the connection between the Bass Lake line and the MN&S line would not require Board approval. In addition, it is not likely that Board authority would be needed for the construction of connecting track between the MN&S line and the BNSF Wayzata line, but we need the following additional information to make that determination:

- How long (in miles) would the proposed connecting tracks be?
- Would the proposed line operate in the same manner as the existing one?
- Would the track only be used for overhead traffic or also for local traffic?
- Would any other additional carriers be rerouted to the MN&S line and the proposed connecting track?
- Who owns the land where the connecting track would be constructed?
- Would the proposed connecting track enable carrier(s) to reach new markets or new competitive territory?
- The DEIS states that the connection would also provide the flexibility to use other routes to get to the various connection that TC&W uses. Please be more specific in describing those other routes.

Chapter 1: Purpose and Need for the Proposed Action

Page	Comment
1-8 and 1-9	<p>The core purpose and need for this project is difficult for a reader to find, and is not mentioned until page 1-8. Recommend stating the purpose and need at the beginning of Chapter 1.</p> <p>Under 40 C.F.R. § 1502.13, an EIS shall briefly specify the proposed project’s purpose and need. Even if a longer explanation follows, we recommend that the purpose and need be more clear and succinct.</p> <p>For example, on page 1-8, there is a paragraph that states: “The primary purpose of the proposed project, the Southwest Transitway, is to provide a high-capacity transit connection improving mobility, accessibility, and system linkages to major population and employment centers including Downtown Minneapolis, Chain of Lakes and Recreation Area, Excelsior and Grand, Downtown Hopkins, Golden Triangle Business District, Opus Business Park, and Eden Prairie Center. The proposed project would also provide a high capacity transit alternative to the traffic congestion in the study area and further the implementation of the Metropolitan Council’s 2030 TPP goal to double transit ridership by 2030.” If this is the core purpose and need statement, we recommend stating it on the first page of Chapter 1.</p>

Chapter 2: Alternatives Considered

Page	Comment
2-20	<p>If TC&W’s freight traffic is rerouted to the MN&S corridor, pages 2-20 and 2-27 of the DEIS state that freight traffic on the MN&S line would increase by a maximum of an additional six trains per day and a maximum of 22 additional trains per week. Freight traffic is projected to increase nationwide over the next several years, and traffic forecasts should be available from the relevant freight railroads. That information would be useful to include in the analyses of alternatives that would result in the rerouting of freight traffic over the MN&S line. If freight traffic forecasts for the reroute alternatives are not evaluated as part of the proposed project, it would seem appropriate to consider freight traffic forecasts and any potential impacts in Chapter 9, Indirect Effects and Cumulative Analysis.</p>
2-22	<p>HCRRA’s December 10, 2012 Memo (Southwest Transitway Draft Environmental Impact Statement Questions and Responses for Surface Transportation Board) indicates that, if freight rail is relocated to the MN&S line, then HCRRA would abandon the Kenilworth Corridor tracks and CP would abandon a portion of their tracks along the Bass Lake Spur.</p>

	For alternatives that would include the rerouting of existing TC&W freight rail service to the MN&S line and Wayzata line, please include information about any planned rail line abandonments, including the information required under the Board's rules at 49 C.F.R. §§ 1105.7(e)(1) and 1105.8.
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Chapter 3: Social Effects

Page	Comment
	Abandonment and discontinuance need to be evaluated. Proposed connecting track between the MN&S line and the BNSF Wayzata line may need to be evaluated.
3-75	The Surface Transportation Board should be included as a consulting agency in the Section 106 review process.
3-77 and 3-78	A Programmatic Agreement (PA) is discussed on pages 3-77 and 3-78, and it would be appropriate for the Surface Transportation Board to be involved in any revision of the PA and to become a signatory to this document.

Chapter 4: Environmental Effects

Page	Comment
	Abandonment and discontinuance need to be evaluated. Proposed connecting track between the MN&S line and the BNSF Wayzata line may need to be evaluated.
4-26	Under Table 4.2-1, "Permitting Agencies, Corresponding Regulatory Responsibilities, and Actions," the Surface Transportation Board should be listed as a "Permitting Agency." The Board is an economic regulatory agency that Congress charged with resolving railroad rate and service disputes and reviewing proposed railroad mergers. The Board has jurisdiction over railroad rate and service issues and rail restructuring transactions, such as mergers, line sales, new line construction, and abandonments. Board approval would be required if: <ul style="list-style-type: none"> • TC&W proposes to discontinue service over CP's Bass Lake Spur and HCRRA's Cedar Lake (Kenilworth Corridor); • CP proposes to abandon a portion of the Bass Lake Spur and HCRRA

	<p>proposes to abandon the Cedar Lake (Kenilworth Corridor)); and/or</p> <ul style="list-style-type: none"> • The construction of connecting track, if it is determined that the new track(s) would enable carrier(s) to reach new markets or new competitive territory. <p>We have provided a description of the Board’s jurisdiction and actions that require Board authorization with our comments.</p>
	<p>Safety</p> <p>Changes in frequency, weight, speed and volume of trains on the MN&S line may increase safety risks, and there are a number of safety concerns because of sharp turns, steep grades, elevated tracks, narrow right-of-way, at-grade crossings, and schools near the line. Accordingly, it is critically important that any proposed changes to freight rail operations conform to relevant freight rail standards. In addition, increased freight rail traffic near schools and residential areas could have safety implications that warrant mitigation.</p>

Chapter 5: Economic Effects

Page	Comment
	No Comments.

Chapter 6: Transportation Effects

Page	Comment
	<p>Abandonment and discontinuance need to be evaluated.</p> <p>Proposed connecting track between the MN&S line and the BNSF Wayzata line may need to be evaluated.</p>

Chapter 7: Section 4(f) Evaluation

Page	Comment
	The U.S. Department of Transportation regulation known as Section 4(f) is not applicable to Surface Transportation Board actions because the Board is an independent agency. Accordingly, we do not have any comments to submit on Chapter 7.

Chapter 8: Financial Analysis

Page	Comment
	No comments.

Chapter 9: Indirect Effects and Cumulative Analysis

Page	Comment
	If TC&W's freight traffic is rerouted to the MN&S corridor, pages 2-20 and 2-27 of the DEIS state that freight traffic on the MN&S line would increase by a maximum of an additional six trains per day and a maximum of 22 additional trains per week. Freight traffic is projected to increase nationwide over the next several years, and traffic forecasts should be available from the relevant freight railroads. That information would be useful to include in the analyses of alternatives that would result in the rerouting of freight traffic over the MN&S line. If freight traffic forecasts for the reroute alternatives are not evaluated as part of the proposed project, it would seem appropriate to consider freight traffic forecasts and any potential impacts in Chapter 9.

Chapter 10: Environmental Justice

Page	Comment
	No comments.

Chapter 11: Evaluation of Alternatives

Page	Comment
	No comments.

Chapter 12: Public Agency Coordination and Comments

Page	Comment
12-14	Under Table 12.2-2. Preliminary List of Required Permits, the Surface Transportation Board should be included in the list of "Federal Approvals" that may be required because, depending on the alternative selected, certain aspects of this proposed project may require a license from the Board. We have provided a description of the Board's jurisdiction and actions that require

	Board authorization with our comments.
12-16	<p>Under the section 12.2.2 titled "Section 106 Coordination," the Surface Transportation Board should be: (1) listed as a coordinating agency and (2) included in the Section 106 process.</p> <p>In addition, a Section 106 Agreement is discussed on page 12-16. As a Federal agency with responsibilities under the National Historic Preservation Act (16 U.S.C. 470f), it would be appropriate for the Surface Transportation Board to be involved in the development of this agreement and to become a signatory to this document.</p>

SURFACE TRANSPORT
WASHINGTON, D.C.

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300
RETURN AFTER FIVE DAYS



RECEIVED
DEC 26 2012
BY:

HENNEPIN COUNTY HOUSING, COMMUNITY WORKS & TRANSIT
Attn: SOUTHWEST TRANSITWAY
701 FOURTH AVE. SOUTH, SUITE 400
MINNEAPOLIS, MN 55415

Attn: KATIE WALKER



Hasler
12/19/2012
US POSTAGE



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.

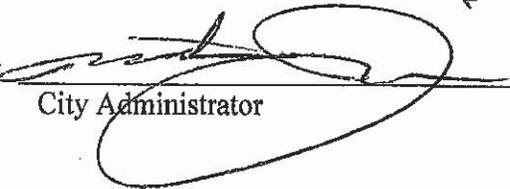
The motion for the adoption of the foregoing resolution was duly seconded by Councilmember Ruehling and upon poll being taken thereon the following voted in favor thereof: Pederson, Ruehling, Pichelmann, Wills, Reetz; and the following voted against the same: None; and the following abstained from voting: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

P.O. Box 396
Buffalo Lake, MN 55314
320-833-2272
cityofbl@mchsi.com
Fax 320-833-2094

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:

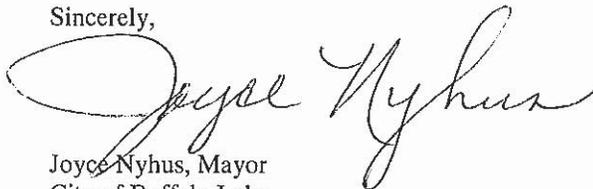
- 33.) Do engineering for the reroute that meets TC&W's engineering standards,
- 34.) Co-locate the SWLRT with the current freight route,
- 35.) Reroute freight back to the 29th St. Corridor, where TC&W ran until 1998, or
- 36.) Route the SWLRT up the MN&S rail line

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 FRIEIGHT 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,

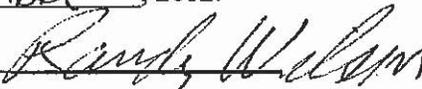
WHEREAS, the City is aware that TC & W RR's mission statement is to grow the economies of the areas it serves, and the DEIS recommendations pose a serious impediment to growing the economy of south central Minnesota. Due to the fact that rural Minnesota provides a significant amount of exports from the 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, Mayor

Attest:

By



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 that reads "Jeff Heerd". The signature is written in a cursive style with a large, stylized initial "J".

Jeff Heerd

Mayor

City of Hector

City of Milan
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:

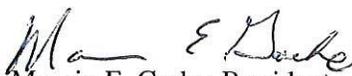
- 65.) Do engineering for the reroute that meets TC&W's engineering standards;
- 66.) Co-locate the SWLRT with the current freight route;
- 67.) Reroute freight back to the 29th Street Corridor, where TC&W ran until 1998; or,
- 68.) Route the SWLRT up the MN&S rail line.

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



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

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.

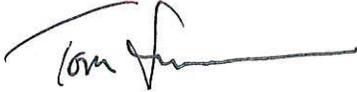
We recommend that Hennepin County and the Met council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our existing economic freight rail transportation.

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

1009 W. Lincoln Avenue, Olivia, MN 56277
(320) 523-2361 (320) 523-1416 (fax)

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.

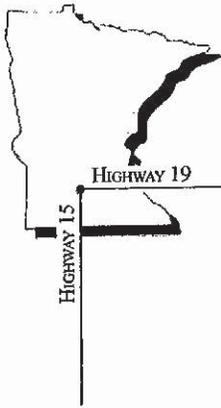
We, the City of Stewart oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

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 trail 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". The signature is fluid and cursive, with a long, sweeping tail on the final letter.

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 5
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



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 KERMIT D. TERLINDEN

2nd District
Phone (320) 864-3738
1112 14th Street East
Glencoe, MN 55336
Kermit.Terlinden@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

COMMISSIONER SHELDON A. NIES

4th District
Phone (320) 587-5117
1118 Jefferson Street South
Hutchinson, MN 55350
Sheldon.Nies@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

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:

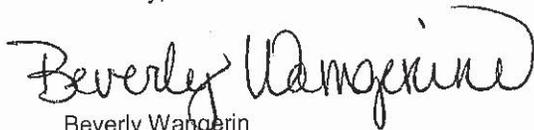
85.)Do engineering for the reroute that meets TC&W's engineering standards,
86.)Co-locate the SWLRT with the current freight route,
87.) Reroute freight back to the 29th St Corridor, where TC&W ran until 1998, or
88.)Route the SWLRT up the MN&S rail line

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 that reads "Beverly Wangerin". The signature is written in a cursive style with a large, sweeping initial "B".

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



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

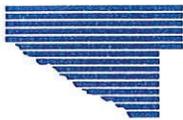
We recommend Hennepin County and the Met Council address TC&W's concerns over the design of the freight rail relocation shown in the DEIS, and work with the TC&W to arrive at a freight rail solution that preserves our region's existing economical freight rail transportation.

Sincerely,

Gary Hendrickx, Chairman

SERVICE • STEWARDSHIP • SHARED RESPONSIBILITY

RENVILLE COUNTY



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 horizontal flourish extending to the right.

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.

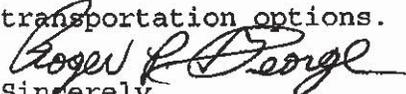
It is imperative that Roberts County retain an economical freight rail transportation option which is provided by TC&W. The design as recommended in the DEIS is not acceptable to maintain our competitive freight rail transportation. Alternatives to your recommended design would be:

- 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



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,

A handwritten signature in black ink, appearing to read "Timothy Dolan". The signature is fluid and cursive.

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

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AaronS@co.sibley.mn.us

Division E-mails:

DepReg94@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

A handwritten signature in blue ink, appearing to read "Lisa Pfarr".

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:

Jim Swanson

JimS@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.

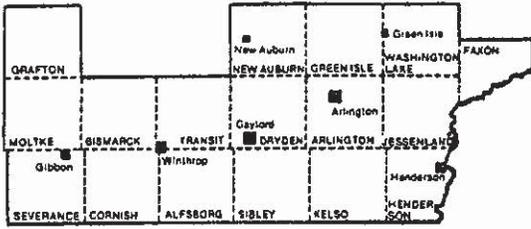
We, the Sibley County Commissioners, oppose the freight rail relocation design recommendation in the DEIS based on information provided by the TC&W and recommend that the freight rail issues be resolved to preserve our economical freight rail transportation options.

Sincerely,

A handwritten signature in black ink, appearing to read "Harold Pettis". The signature is written in a cursive, somewhat stylized script.

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 over a horizontal line.

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

MAILED FROM ZIP CODE 55336

RECEIVED
DEC 26 2012
BY:

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

et East
ota 55336



Minnesota Department of Transportation

Metropolitan District

Waters Edge Building
1500 County Road B2 West
Roseville, MN 55113

Comment #401



December 20, 2012

Ms. Katie Walker, Project Manager
Hennepin County
Housing, Community Works and Transit
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415

SUBJECT: Southwest Transitway Draft EIS
MnDOT Review # DEIS12-003
Hennepin County

Dear Ms. Walker:

Thank you for the opportunity to review the Southwest Transitway Draft Environmental Impact Statement (DEIS). We recognize that the Southwest Light Rail Transit (SWLRT) is a planned backbone element of the Twin Cities regional transitway system and that it will help to increase citizens' access to major regional destinations. Below you will find technical comments regarding material included in the Draft EIS and anticipated future review steps.

Please note that MnDOT's review of this DEIS does not constitute approval of a regional traffic analysis and is not a specific approval for access or new roadway improvements. As plans are refined, MnDOT would like the opportunity to meet with Hennepin County to review the updated information. MnDOT's staff has reviewed the document and offers the following comments:

Freight Rail

MnDOT has been a partner agency in the development of the SWLRT project, and has been involved principally due to its responsibility in several areas. These include State trunk highway infrastructure, bridges, intersections, and contiguous rights of way, railroad grade crossing safety, and support of freight rail system service and continuity, in accordance with the Statewide Multimodal Transportation Plan, the State Rail Plan, and the State Freight Plan.

MnDOT has actively monitored freight relocation issues and initiatives, and was tasked as the Responsible Governing Unit (RGU) in ruling on the validity of the draft St. Louis Park Freight Rail Relocation Environmental Assessment Worksheet (EAW) that was commissioned by Hennepin County in support of the freight rail relocation option.

In reviewing the Draft Environmental Impact Statement (DEIS), MnDOT notes that the Federal Transit Agency (FTA) has directed the Metropolitan Council, through its conditional approval to enter into Preliminary Engineering, to continue the factual determination of the most effective and beneficial routing of freight traffic that is impacted by this project. Consistent with previously stated positions, MnDOT considers the two options, co-location and re-location, to both be potentially workable for freight rail, and should undergo appropriate study to quantify costs and operating aspects as planned by the Project Team during initial phases of the Preliminary Engineering. MnDOT feels that this will adequately satisfy the intent of the FTA condition regarding freight rail routing, serve to positively answer the concerns of the opposing viewpoints in this matter, and reach agreement with the operating freight railroads on the necessary goal of retaining effective connections to the rail freight system.

Noise

It appears that the noise analysis followed the FTA noise analysis and mitigation protocols, thus MnDOT did not perform a detailed analysis on the results. It has been MnDOT's understanding, based on conversations with the Minnesota Pollution Control Agency (MPCA), that LRT is not exempted from addressing the Minnesota State Noise standards nor are they exempted from addressing the Minnesota State Noise Rules (7030 series). If not exempted by the MPCA, State Noise Standards and rules should be addressed.

If you have any questions regarding MnDOT's noise policy please contact Peter Wasko in our Design section (651-234-7681 or Peter.Wasko@state.mn.us).

Water Resources

It appears that drainage permits will be required where the corridor crosses and parallels state roads within MnDOT's right of way. MnDOT expects these determinations will be made when the final design plan is submitted.

Additional information may be required once a drainage permit is submitted and after a detailed review. MnDOT will not allow an increase in discharge to MnDOT right-of-way. Please direct any questions regarding these issues to Hailu Shekur (651-234-7521 or hailu.shekur@state.mn.us) of MnDOT's Water Resources Engineering section.

Design

It is anticipated that all trunk highway impacts will be reviewed and approved through the layout approval process and proposed alterations will use the policy and criteria presented in the MnDOT Road Design Manual. Additional information on MnDOT's Geometric

Design and Layout Development process can be found at:
<http://www.dot.state.mn.us/design/geometric/index.html>

For questions concerning this subject, please contact Nancy Jacobson, (651-234-7647 or nancy.jacobson@state.mn.us) in the Metro Design Section.

Planning

Page 6-47 currently states: “A traffic management plan would be developed and agreed upon by appropriate levels of administration including MnDOT, Hennepin County, and all municipalities along the construction alignment. The plan would include ways to maintain traffic flow, existing transit services, and pedestrian access along each disrupted roadway.”

MnDOT suggests adding bicycle access to the sentence as well since there may be instances where construction will disrupt existing on-street bikeways or trails.

The FEIS should describe the provision of short and long-term bicycle storage and parking near transit stations. Bicycle storage provides an important connection as part of an integrated transportation system and can promote the use of public transportation. The FEIS should investigate the number of bicycle parking spaces needed and the total space required for these facilities at stations and bus stops along the corridor.

Several of the maps contain a roadway labeling error. Minnesota Trunk Highway 7 does not extend east of Highway 100. East of Highway 100, the roadway should be labeled as County Road 25.

Because of the ease of boarding and alighting associated with light rail transit, the SWLRT may be an attractive option for a variety of users including people with mobility challenges. Some may use Metro Mobility to arrive at an LRT station. Consider mobility drop off zones at points where passengers may arrive by mobility bus. A mobility zone assures that should there be any problems with loading or unloading, other mainline buses would not be caught in a queue waiting for the problem to resolve.

Traffic

Both Priority and preemption are mentioned in different places in the document. The type of operation that is chosen will greatly impact the operation of the traffic signals. MnDOT prefers that all the at-grade signals be operated with priority. Please clarify the proposed operation plan.

MnDOT and HCRRA have been and will continue to work on finalizing an agreement that addresses the HCRRA Transportation Corridor which crosses TH100.

Page 6-18: Include: TH212 at Shady Oak Road Interchange Project

Page 6-38: The access to/from Lake Street on TH 7 will be closed (part of the TH7/Louisiana Ave Interchange Project, City of St. Louis Park led Project)

Page 6-61: If the freight rail relocation option is chosen, the timing and duration of TH7 closures will need more discussion as it relates to the construction and impacts of the proposed MN&S bridge over TH 7.

The intersection of Prairie Center Drive and Valley View Road is shown as an at grade intersection. This intersection operates at a Level of Service (LOS) E under the existing conditions. The 2030 LRT build scenarios show that this intersection is proposed to operate at a LOS F. This degradation in service represents an unacceptable level of delay. In addition, operations at three other intersections nearby (Prairie Center Drive and Viking Drive, Valley View Road and Bryant Lake Drive, Valley View Road and Flying Cloud Drive) are expected to have their LOS degraded to LOS E or LOS F in the 2030 build scenario. These LOS conditions have the potential to negatively impact the access ramps to and from TH212 and could potentially affect operations on the TH212 mainline. Please identify the options that have been investigated at the Prairie Center Drive and Valley View Road intersection. Also, identify the tools that have been implemented to better understand the operations of this intersection. MnDOT looks forward to working with the design team to investigate strategies to mitigate these impacts.

The maps showing the sites being considered for the Operations and Maintenance Facility (OMF) are too general, making it difficult for MnDOT and other agencies to get a sense of the types of impacts these facilities may have on roadway operations. In particular, the Eden Prairie 2 (Wallace Road) site could have significant impacts to the Eastbound TH 212/Wallace Road off-ramp if the tracks were to cross this roadway at-grade.

The document references several figures. One set of figures is labeled as alignments and location codes. This figure outlines the proposed route and also identifies all the proposed intersections. This figure describes the intersection crossing as AG (at grade) or GS (grade separated). If these designations change as the project moves forward, MnDOT would like the opportunity to review and comment on these proposed changes.

Please direct any questions regarding these comments to Ryan Coddington (651-234-7841 or ryan.coddington@state.mn.us).

Right-of-Way/Permits

Any use of or work within or affecting MnDOT right-of-way requires a permit. Per the Cooperation Agreement between MnDOT and the Metropolitan Council for SWLRT, the use of MnDOT right-of-way may not require permits, but will require extensive

communication and coordination between the two agencies. It is anticipated that more specific impacts to MnDOT right-of-way will be determined during the FEIS and Preliminary Engineering phases. Permit forms are available from MnDOT's utility website at www.dot.state.mn.us/tecsup/utility. Please direct any questions regarding permit requirements to Buck Craig, MnDOT's Metro Permits Section, at (651) 234-7911.

Thank you for the opportunity to review the Southwest Transitway Draft Environmental Impact Statement.

Sincerely,

A handwritten signature in blue ink that reads "Pat Bursaw". The signature is written in a cursive style with a large initial "P" and "B".

Pat Bursaw
Office of Planning, Program Management, and Transit

Copy via Email:

Lynne Bly

Dave Christianson

Lynn Clarkowski

Ryan Coddington

Buck Craig

April Crockett

Paul Czech

Rick Dalton

John Griffith

Jim Henricksen

Lars Impola

Brian Isaacson

Nancy Jacobson

Carl Jensen

Brian Kelly

Molly McCartney

Gina Mitteco

Tori Nill

Becky Parzyck

Scott Pedersen

Ron Rauchle

Hailu Shekur

Tod Sherman

Aaron Tag

Michael Vogel

Pete Wasko

Ann Braden, Metropolitan Council

5541581843

Katie Walker
Housing, Community Works and Transit
701 4th Ave S, Suite 400
Minneapolis, MN
55415

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Minnesota Department of Transportation
Metropolitan District Waters Edge
1500 West County Road B-2
Roseville, MN 55113-3174





Minnesota Pollution Control Agency

520 Lafayette Road North | St. Paul, Minnesota 55155-4194 | 651-296-6300
800-657-3864 | 651-282-5332 TTY | www.pca.state.mn.us | Equal Opportunity Employer

Comment #402



December 21, 2012

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

Re: Southwest Transitway Draft Environmental Impact Statement

To Whom It May Concern:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway project (Project) located in Hennepin County, Minnesota. The Project consists of construction of a light rail system between the cities of Minneapolis and Eden Prairie. Regarding matters for which the Minnesota Pollution Control Agency (MPCA) has regulatory responsibility and other interests, the MPCA staff has the following comments for your consideration.

Section 4.1 Geology and Groundwater Resources

For the stream and creek crossing, it would be appropriate to list the In-water best management practices that will be used (page 4-13).

Section 4.2 Water Resources

- Table 4.2.1 – Under permitting for the MPCA, it should state Section 401 of the Clean Water Act, not Section 402.
- Since wetland delineations have yet to be done for the site (page 4-32), comments on impacts to the wetlands and streams and issues about mitigation will require further information.

Section 4.9 Hazardous and Contaminated Materials

Please note that the proposed route of LRT 3A and 3B runs along, and adjacent to, the west boundary of the Hopkins Landfill property. The landfill was not identified in the DEIS as a “potentially contaminated property” although it is included on the Minnesota Pollution Control Agency’s (MPCA) “What’s in My Neighborhood” that is referenced in the DEIS. Groundwater beneath the site is contaminated with arsenic, benzene, and vinyl chloride and the contaminant plume extends to the east and northeast and discharges into Nine-mile Creek. The Groundwater Area of Concern, defined as the area of land surrounding a landfill where the presence of activities that require the use of groundwater may be impacted or precluded by contamination from the landfill, extends west off the landfill property and encompasses the proposed LRT route. In addition, the Methane Gas Area of Concern, defined as the area of land surrounding a landfill waste footprint where the presence of certain activities such as construction of enclosed structures may be impacted or precluded by subsurface migration of methane gas, will extend west off the landfill property and include the proposed LRT route.

The MPCA has concerns about the proximity of the LRT construction to the landfill. First, if dewatering is anticipated for LRT construction, the possibility of encountering contaminated groundwater may exist, depending on depth. The pumping of contaminated groundwater will need to be addressed appropriately. Second, due to the risks associated with methane generation at the landfill, enclosed

December 21, 2012

structures should not be built within 200 feet of the west boundary of the landfill property. Third, if the installation of pilings is anticipated in order to construct a bridge over the wetland west, and the freight-rail tracks northwest, of the landfill property, excessive vibration could negatively affect the operation of the active gas extraction system and could potentially jeopardize the stability of the landfill cover. This issue will require additional evaluation prior to construction. Please contact Shawn Ruotsinoja at 651-757-2683 if you have questions regarding the Hopkins Landfill.

We appreciate the opportunity to review this Project. Please be aware that this letter does not constitute approval by the MPCA of any or all elements of the Project for the purpose of pending or future permit action(s) by the MPCA. Ultimately, it is the responsibility of the Project proposer to secure any required permits and to comply with any requisite permit conditions. If you have any questions concerning our review of this DEIS, please contact me at 651-757-2508.

Sincerely,



Karen Kromar
Planner Principal
Environmental Review Unit
Resource Management and Assistance Division

KK:mbo

cc: Craig Affeldt, MPCA, St. Paul
Doug Wetzstein, MPCA, St. Paul
Jim Brist, MPCA, St. Paul
Shawn Ruotsinoja, MPCA, St. Paul



Minnesota Pollution Control Agency
520 Lafayette Road North | St. Paul, MN 55155-4194 | www.pca.state.mn.us
4th Floor

DEC 26 2012
BY:

PRESORTED
FIRST CLASS



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

KJ*30GB





REPLY TO
ATTENTION

DEPARTMENT OF THE ARMY
ST. PAUL DISTRICT, CORPS OF ENGINEERS
180 FIFTH STREET EAST, SUITE 700
ST. PAUL MINNESOTA 55101-1678

Comment #406

DEC 26 2012

DEC 20 2012

Operations
Regulatory (2009-01283-MMJ)

Ms. Katie Walker, Hennepin County
Housing, Community Works and Transit
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, Minnesota 55415

Dear Ms. Walker:

We have reviewed the *Southwest Transitway Draft Environmental Impact Statement (DEIS)* dated October 2012, and prepared by the United States Department of Transportation, Federal Transit Administration, as well as the Hennepin County Regional Rail Authority and the Metropolitan Council. This letter contains comments on this DEIS for your consideration. The Southwest Transitway project area includes a 15-mile corridor through Eden Prairie, Minnetonka, Edina, Hopkins, St. Louis Park, and Minneapolis (the Corridor), in Hennepin County, Minnesota.

If the Southwest Transitway project involves a discharge of dredged or fill material into waters of the United States (WOUS), a Clean Water Act Section 404 (CWA Section 404) permit would be required. CWA Section 301(a) prohibits discharges of dredged or fill material into WOUS, unless the work has been authorized by a Department of the Army permit under Section 404. Information about the Corps permitting process can be obtained online at <http://www.mvp.usace.army.mil/regulatory>.

Corps evaluation of a Section 404 permit application involves multiple analyses, including (1) evaluating the impacts in accordance with the National Environmental Policy Act (NEPA) (33 CFR part 325), (2) determining whether the proposal is contrary to the public interest (33 CFR § 320.4), and (3) determining whether the proposal complies with the Section 404(b)(1) Guidelines (Guidelines) (40 CFR part 230). If a CWA Section 404 permit is required, our review of impacts to aquatic resources would include direct impacts to WOUS and also those WOUS and non-jurisdictional aquatic resources indirectly and cumulatively impacted by the proposed work in WOUS.

The purpose and need statement and the range of alternatives evaluated in the DEIS were developed through a series of interagency meetings conducted prior to publication of the document. For our permit review, the Corps is responsible for defining the overall project purpose. We use the overall project purpose to evaluate practicable alternatives under the Guidelines. The overall project purpose must be specific enough to define the applicant's needs, but not so restrictive as to preclude all discussion of alternatives.

In Chapter 1 (Page 1-8) of the DEIS, "Purpose and Need," the project purpose is defined as: "to provide a high-capacity transit connection improving mobility, accessibility, and system linkages to

major population and employment centers including Downtown Minneapolis, Chain of Lakes and Recreation Area, Excelsior and Grand, Downtown Hopkins, golden Triangle Business District, Opus Business Park, and Eden Prairie Center.” The goals of the Southwest Transitway project are summarized as follows: to improve mobility, provide a cost-effective and efficient travel option, preserve the environment, protect the quality of life, and support economic development.

The Corps suggests a broader overall project purpose, which would be more appropriate for our CWA Section 404 review, “to provide high-capacity transit service in the Southwest Transitway study area.” This overall project purpose would work well to direct the range of reasonable alternatives to be considered in the 404 permit application review process. Also, our suggested overall project purpose coincides with the transit alternatives that were considered and advanced for further study in the 2007 Southwest Transitway Alternatives Analysis (AA), as described in Chapter 2 of the DEIS, “Alternatives Considered.” Therefore, the Corps concurs with the array of alternatives considered for this project as well as the alternatives that were carried forward in the DEIS, described below.

The AA evaluated ten potential build alternatives, which included eight Light Rail Transit (LRT) alternatives and two bus rapid transit alternatives. The AA also evaluated a conventional bus alternative, referred to as the Enhanced Bus Alternative, and a no-build alternative. After a thorough analysis of these alternatives, and the inclusion of additional alternatives identified during the NEPA/MEPA scoping process, five LRT alternatives, LRT 1A, LRT 3A, LRT 3A-1 (co-location), LRT 3C-1 and LRT 3C-2, were carried forward for consideration as the Locally Preferred Alternative (LPA). The no-build and the enhanced bus alternative were also carried forward into the final LPA analysis. After additional evaluation of the remaining alternatives, the DEIS recommends alternative LRT 3A as the LPA for the Southwest Transitway project.

To comply with the Guidelines, the alternatives analysis must consider ways to avoid and minimize impacts to WOUS so that the least environmentally-damaging practicable alternative (LEDPA) can be identified. The Guidelines specifically require that “no discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences” (40 CFR § 230.10(a)). Per the Guidelines, a practicable alternative is defined as available and capable of being done after taking into consideration cost, existing technology, and logistics in light of the overall project purpose. Time and money spent on the proposal prior to applying for a Section 404 permit cannot be factored into the Corps decision whether a less damaging practicable alternative is available.

As proposed, the chosen LPA, alternative LRT 3A, would not qualify as the LEDPA as defined in the Guidelines. As shown on Table 4.2-2, Impact by Alternative (Page 4-34), the construction of alternative LRT 3A (the LPA) would discharge fill material over approximately 2.9 acres of wetland, whereas alternative LRT 3A-1 (co-location alternative) would discharge fill material over approximately 0.9 acre of wetland. For CWA Section 404 purposes, the LEDPA is the alternative that meets the project purpose and is available to the applicant that has the least amount of impact to aquatic resources, which as proposed would be alternative LRT 3A-1 (co-location). The burden of proof to demonstrate compliance with the 404(b)(1) Guidelines rests with the applicant; where insufficient information is provided to determine compliance, the Guidelines require that no permit be issued. If you plan to move

forward with alternative LRT 3A as the LPA you will need to submit additional information to support your decision to eliminate alternative LRT 3A-1 from consideration.

The wetland impact figures in Table 4.2-2 are approximations extracted from the Minnesota Department of Natural Resources Land Cover Classification System and the United States Fish and Wildlife Service National Wetland Inventory datasets. Local municipalities and watershed districts located within the Southwest Transitway project area also have wetland inventory datasets that could be used to better quantify the potential wetland impacts within the construction limits of the Corridor. We recommend that these local datasets be used to update the wetland impact figures provided in the Final Environmental Impact Statement (FEIS) for the Southwest Transitway Project. Also, Section 4.2.2.2 states that a wetland delineation will be completed during final design of the project. We recommend that a wetland delineation be completed, field verified, and approved before the project moves into final design. The delineation should be completed according to the Corps of Engineers Delineation Manual and the Midwest Supplement, and needs to be approved by the Corps as well as the Local Government Units that administer the Minnesota Wetland Conservation Act within the Corridor. The delineation should identify all wetland, stream, and drainage features located within construction limits of the Corridor. The delineation should be completed and approved prior to final design so that the design can incorporate measures that avoid and minimize impacts to WOUS within the Corridor.

Compensatory wetland mitigation would only be considered after we determined that wetland impacts have been avoided and minimized to the maximum practicable extent. All unavoidable wetland loss associated with the Southwest Transitway Project would require replacement according to the Mitigation Rule (33 CFR 332) and the St. Paul District Policy for Wetland Compensatory Mitigation in Minnesota (District Policy). In accordance with the Mitigation Rule and our District Policy, we prefer that all unavoidable wetland impacts associated with the Southwest Transitway Project be compensated for through the purchase of wetland bank credits within the appropriate Bank Service Area (BSA). The Southwest Transitway Corridor is located within three separate BSAs, including BSA 7 (Upper Mississippi River Basin), BSA 9 (Minnesota River Basin), and BSA 11 (Twin Cities Metro).

Thank you for the opportunity to comment on the DEIS. We look forward to reviewing the FEIS, the wetland delineation, and if necessary, the CWA Section 404 permit application for this project. For further information, please contact Melissa Jenny, the Corps project manager for Hennepin County, at 651-290-5363 or Melissa.m.jenny@usace.army.mil.

Sincerely,



for Tamara E. Cameron
Chief, Regulatory Branch

Copy furnished:
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Nani Jacobson, Metro Transit
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WCA LGU's within the Corridor

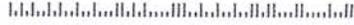
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December 21, 2012

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SUBJECT: Comments on the *Southwest Transitway Draft Environmental Impact Statement (SW DEIS)*

The City of St. Louis Park appreciates the opportunity to comment on the Southwest Transitway Draft Environmental Impact Statement (SW DEIS). Attached are comments derived from applying the City's SW LRT and freight rail policies to the information presented in the SW DEIS, and general comments regarding information and analyses in the SW DEIS.

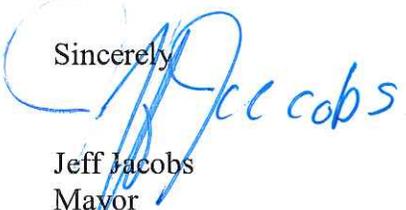
In its September 2011 letter to the Met Council, the Federal Transit Administration (FTA) required that routing of freight rail traffic be incorporated into the SW Transitway project and DEIS as a condition of the FTA's funding of the SWLRT project. Alternative 3A-1 (co-locating freight rail and light rail in the Kenilworth corridor) was subsequently added into the SW DEIS. The SW DEIS concludes that Alternative 3A (LRT in Kenilworth corridor and freight rail relocated to the MN&S/BNSF) should be considered the "Environmentally Preferred Alternative."

Overall, the City of St. Louis Park has not found information in the SW DEIS that supports this conclusion. There is not a fair, even and consistent comparison of the freight alternatives, and the data provided does not equate with the summary conclusions put forth in the SW DEIS.

The DEIS shows alternatives 3A and 3A-1 to be equal in many regards. Both achieve the basic purpose of constructing a LRT project well; ridership projections are equal, and operating costs are estimated to be equal. Improvements to regional mobility, access to jobs, and improvements to air quality are also equal. However, it is unclear on what basis Alternative 3A (relocation) was judged to be superior to alternative 3A-1 (colocation); we explain in detail our specific concerns in the attached comments.

The City of St. Louis Park requests that Hennepin County and the Metropolitan Council address the inadequacies in the SW DEIS to provide a much more fair and even evaluation of the two freight rail alternatives in order that the Metropolitan Council has a sound basis for making a responsible routing decision.

Sincerely,



Jeff Jacobs
Mayor

City of St. Louis Park
Evaluation and Comments on the
Southwest Transitway Draft
Environmental Impact Statement (SW
DEIS)

December 31, 2012

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City of St. Louis Park
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Attachments

1. City of St. Louis Park Resolutions: 10-070; 10-071; 10-005
2. FTA PE Approval Letter SW Corridor 09-02-11
3. Letter from City to Metropolitan Council dated 9-23-11
4. Letter from Metropolitan Council dated 10-21-11
5. EAW
 - a. MNS EAW Track profiles (by Kimley Horn and AECOM)
 - b. CP and TC&W letters of 06-14-11 on EAW
 - c. SEH Technical Memos 1-3
 - d. City comments on EAW; SEH Tech Memo #4 and attachments, including:
 - Southern connection drawing
 - Skunk Hollow wye area
 - Wider r-o-w north of Highway 5
 - Comparison of Alternative 3A and 3A-1 Freight Rail Corridor Widths and Proximity to Homes
 - e. North frontage road under MN&S
6. MnDOT EAW Withdrawal Resolution
7. Letter to HCRRA dated 10-14-08
8. Wooddale and Beltline Grade Separation Summary 05-05-11
9. Railroad Easement
10. SW LRT Traffic Review by SRF
11. TKDA Final Report 11-18-09
12. TKDA Plan Set 2009
13. RL Banks Study Presentation 11-29-10
14. TCWR Route Alternatives Study by Amfahr 11-29-10
15. STB questions, HCRRA response, City response
16. Specific Comments DEIS by page

I. Evaluation of SW DEIS in Context of St. Louis Park SW LRT and Freight Rail Policies

The City of St. Louis Park has been and continues to be a strong supporter of the Southwest Transitway LRT project. We look forward to implementation of SW LRT and the initiation of light rail train service for the benefit of our residents, our businesses and the region at large. Expansion of the transit system in the Metro area is a wise and prudent investment supported by the City of St. Louis Park. We have been eager and willing participants throughout the SW Transitway planning process and look forward to our participation in the SW LRT design process.

The City's support for SW LRT was memorialized in Resolution 10-005 (attached) sent to the Metropolitan Council in January 2010. The resolution stated the City's support for the SW LRT project and the Locally Preferred Alternative for the light rail trains, alternative 3A (relocation). It also acknowledged that construction of the SWLRT line would require changes to freight rail in St. Louis Park and Minneapolis, and it expressed concerns that the impacts of the freight rail changes be identified fairly and addressed fully.

The support for SW LRT was stated again in Resolution 10-070 in July 2010. That resolution also recognized the continued challenge presented by freight rail for the implementation of the SW LRT project and stated the conditions under which the rerouting of train traffic from the Kenilworth corridor to the MN&S tracks would be acceptable to the City of St. Louis Park. The resolution established the conditions under which the City would accept relocation of the freight trains to the MN&S tracks.

Below is the text from Resolution 10-070 which states the city's policy regarding freight rail rerouting. It says:

“NOW THEREFORE BE IT RESOLVED by the City Council of St. Louis Park that the City of St. Louis Park:

1. Supports the implementation of the Southwest Transitway LRT project; and,
2. Continues to support the May 23, 2001 Railroad Task Force Recommendations adopted by the City Council October 21, 2001; and,
3. Opposes the introduction of any rerouted freight rail traffic north and south through the City of St. Louis Park; and,
4. Opposes the rerouting of freight rail traffic from the Kenilworth corridor to St. Louis Park unless the following conditions are clearly met:

- a. It is established through a very thorough and careful analysis that no other viable route exists;
- b. There is appropriate mitigation of any and all negative impacts associated with rail rerouting, funded by sources other than the City of St. Louis Park. Potential negative impacts that should be addressed include but are not limited to noise, vibration, odors, traffic congestion and safety, school use and safety, park use and safety; and, circulation/access in the community by vehicle, pedestrian, transit and bicycle;
- c. Elimination of railroad switching, sorting and blocking operations within the City of St. Louis Park; and funded by some other source than the City of St. Louis Park;
- d. Removal of the existing “wye” rail tracks in the vicinity of Oxford Street and any other tracks not needed for through train traffic including the rail tracks east of any new interconnections between the East-West CP-TCWR tracks and the North-South CP-MNS tracks;
- e. Creation of a freight rail single track corridor with significant right-of-way and safety measures incorporated between the track and adjacent properties;
- f. Creation of a whistle-quiet zone funded by sources other than the City of St. Louis Park throughout the entire north-south MNS corridor.”

Paragraphs 4a through 4f in Resolution 10-070 (above) spell out the conditions under which the City of St. Louis Park would find re-routing Kenilworth train traffic to the MN&S tracks acceptable. Key among the conditions are (1) that it be shown that no other viable route for freight rail exists; and, (2) if freight trains were to be rerouted to the MN&S, adequate mitigation must be provided.

The SW LRT project as described in the DEIS and the analysis provided in the DEIS fail to satisfy the conditions the City of St. Louis Park established as the basis for accepting rerouting of freight trains to the MN&S line. St. Louis Park believes that co-location in the Kenilworth corridor could be a viable route for freight rail; and, even if it proves not to be, the mitigation and other conditions under which the MN&S route would be acceptable to the City of St. Louis Park have not been met.

The failure of the DEIS to address these issues is described below.

A. Is there a viable alternative to MN&S for freight rail?

The first condition for accepting re-routing traffic to the MN&S is Resolution 10-070 item 4a:

“a. It is established through a very thorough and careful analysis that no other viable route exists;”

For St. Louis Park, the acceptability of the MN&S tracks for re-routed Kenilworth trains starts with the question, is there any other viable alternative route for the freight trains? The City's consultant, SEH completed analysis that showed how co-location in the Kenilworth corridor is viable. This analysis and attendant drawings were used as the basis for the co-location alternative and comparison in the SW DEIS. The SW DEIS does not show that co-location of freight rail and light rail in the Kenilworth corridor (alternative 3A-1 co-location) is not viable.

1. Section 4(f) Conclusion is Unproven

The DEIS concludes that co-location is not feasible primarily based on the conclusion that co-location requires the acquisition of .81 acres of Cedar Lake Park. It also concludes that this would not be a de minimis taking of parkland and that it would "constitute a section 4(f) use", which means use of the Cedar Lake Park land would not be allowed by the federal Secretary of Transportation, thereby making alternative 3A-1 (co-location) unfeasible.

Section 7.0 of the SW DEIS is labeled draft Section 4(f) evaluation. Its preliminary two-fold conclusion that the use of Cedar Lake Park "would likely not be avoided" or considered to be de minimis is unsupported by any factual analysis, does not comply with applicable federal rules, and exhibits a total disregard for any fair and objective analysis of co-location as a feasible alternative.

There are no facts set forth anywhere in the SW DEIS identifying the purported .81 acres of Cedar Lake Park to be acquired, nor how the calculation was made. It appears that the area in question is not actively used by the public, is former railroad property and is the current location of freight rail tracks in the Kenilworth corridor. At page 7-21, the DEIS states that "conceptual engineering completed to date" identifies the 0.81 acres. SW DEIS Appendix F (part 3) contains "conceptual engineering drawings." They are the drawings prepared for the City of St. Louis by SEH in 2010. There is nothing in the appendix that addresses or identifies what land needs to be taken for the relocation of the existing-freight rail tracks; however the 3A-1 (SEH plan) drawings show co-located trains where the existing freight rail tracks are operating today.

At ES-7 and 2-41, the SW DEIS states that the Kenilworth tracks "would need to be reconstructed to meet BNSF design standards for clearance requirements." It is unclear whether a claimed clearance requirement is linked to the claimed .81 acre impact on Cedar Lake Park. The co-location assumes a 25' distance between the freight railroad and light rail tracks. This 25' distance is being used by Hennepin County Regional Rail Authority (HCRRA) for similar projects. Assuming this separation distance, there is no apparent need to relocate the freight rail track to the west into Cedar Lake Park any further than it is shown on the concept drawings for alternative 3A-1 (co-location). The freight rail track would remain in its present location.

The Section 4(f) rules require that a project be designed to avoid or minimize the impact on 4(f) property. Specifically 23 C.F.R. § 744.3 requires the Metropolitan Council, as part of the co-

location design process to analyze feasible and prudent alternatives, avoid the use of 4(f) property and if avoidance is not possible, to perform “all possible planning” to minimize harm to the parkland. There is absolutely no evidence in the DEIS that any attempt has been made, as part of whatever conceptual engineering on co-location has been performed, to avoid impact to Cedar Lake Park, if in fact an impact even exists. One seemingly obvious concept would be to shift the alignment east onto HCRRA property.

There are also no facts or analysis as to why any impact to park land that might occur would not be considered “de minimis” which is defined by applicable rule as an impact that “will not adversely affect the features, attributes or activities” of the park land. There are no facts or analysis as to why any minor shifting of the freight rail track along the border of Cedar Lake Park, assuming it cannot be avoided, would not be de minimis. There are also no facts or analysis, even on a conceptual level, as to why the Minneapolis Park and Recreation Board would, potentially arbitrarily, refuse to consider such an impact to be de minimis, especially if mitigating steps were taken to lessen any impact.

The HCRRA and its consultants prepared the SW DEIS. The Metropolitan Council will lead the process for the development of the SW FEIS. The SW DEIS concedes that no avoidance or mitigation analysis has been done on any of the alternatives. At Section 7.2 the SW DEIS states:

A series of coordination meetings will be conducted with the parties that control these Section 4(s007Aazf) protected properties, and/or the regulatory agencies responsible for these properties, to discuss the potential for the use of these properties and the results of avoidance and minimization efforts. The majority of these meetings would occur during preliminary engineering and would be presented in the Final Section 4(f) Evaluation.

At Section 7.4.1.2, the SW DEIS states:

This summary is preliminary because design is not sufficiently advanced to conclude that avoidance and minimization measures have been exhausted. Additional efforts will be made during Preliminary Engineering to avoid or minimize the use of any of these Section 4(f) properties. The results of this additional analysis will be presented in the Final Section 4(f) Evaluation.

Despite this acknowledgment and the total lack of any facts in the SW DEIS relating to the claimed use of Cedar Lake Park, HCRRA at Section 7.4.1.5 of the SW DEIS concludes that co-location “would” necessitate additional expansion of ROW outside of the HCRRA-owned parcels into adjacent parkland.” In the next sentence the SW DEIS states that “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.” The Metropolitan Council as the lead agency for the SW FEIS must perform

an independent, objective 4(f) review in accordance with the rules based upon facts and not conjecture.

Furthermore, even assuming that co-location would involve an unavoidable use of 4(f) property which is not de minimis, there is no basis for assuming that re-routing freight trains to the MN&S route has met the statutory requirement that there be a “prudent and feasible” alternative. Without additional mitigation, agreement from the railroads on the design of this route, and complete evaluation of all the impacts associated with this route, that conclusion cannot be reached. The MN&S route does not meet typical railroad design standards, it presents severe operational challenges, has unique conditions such as tracks separating St. Louis Park High School from its athletic field, and tracks passing diagonally through intersections; these have not been adequately addressed in the SW DEIS and make the SW DEIS’s conclusions unsupported.

2. Dismissing Alternative 3A-1 (co-location) is Premature

Drawing a conclusion in the SW DEIS that the co-location alternative is not feasible is premature and contradicts the direction to the Met Council from the FTA to study and address all the concerns prior to entering into the final design phase of the SWLRT project. The Met Council has not begun preliminary design, so concluding that co-location is not feasible in the SW DEIS pre-emptively dismisses the co-location alternative. St. Louis Park believes this conclusion is inappropriate at this stage of the SW LRT design process.

3. Evaluation of Alternative Needs to Wait for Preliminary Engineering

The analysis of the freight rail impacts of the MN&S route is almost exclusively based on the EAW work completed on that corridor in 2010-11. Although that is the source of the SW DEIS’s analysis of the MN&S route, the comments submitted by St. Louis Park and the public regarding the EAW were not included in the SW DEIS documents or addressed as a part of the analysis. These comments are pertinent to the evaluation of the prudence and feasibility of the MN&S route for rerouted freight trains. The City of St. Louis Park dropped its legal challenge of the MN&S EAW with the understanding that a full analysis of the co-location option as well as the MN&S route would be done and that this work would include preliminary designs for both routes. The SW DEIS does not offer any new design or further analysis of either route from what was done during the MN&S study and the work by the City of St. Louis Park’s own consultants. There needs to be much more design and cost analysis before a co-location alternative is declared not viable.

B. Mitigation in SW DEIS is Inadequate

The second condition for accepting re-routing traffic to the MN&S is Resolution 10-070 item 4b:

“b. There is appropriate mitigation of any and all negative impacts associated with rail rerouting, funded by sources other than the City of St. Louis Park. Potential negative impacts that should be addressed include but are not limited to noise, vibration, odors, traffic congestion and safety, school use and safety, park use and safety; and, circulation/access in the community by vehicle, pedestrian, transit and bicycle;”

The inherent characteristics of the MN&S route require robust mitigation measures to protect the neighboring residents, businesses, students, community facilities; and, to ensure trains operate safely. These apply largely to the MN&S route, and many of them also would be necessary under the 3A-1 (co-location) alternative. A comparison of characteristics of the freight rail route alternatives is provided later in these SW DEIS comments, in section E.

City Resolution 10-070 recognized the need and importance of mitigation along the MN&S, BNSF and Bass Lake Spur; and made it a condition of acceptance of the MN&S route for freight rail. The mitigation alluded to in the SW DEIS is not adequate and falls well short of what is needed if a reroute to the MN&S is to be successful. Below, the City states the following items must be included to address negative impacts from freight trains in St. Louis Park.

1. Track improvements/upgrades (both Alternatives 3A (relocation) and 3A-1 (co-location))

The proposed improvements will upgrade the tracks to modern mainline standards that will include continuous welded rail and upgraded crossing signals with gates. This is part of the proposed project and is among the base improvements needed to make this route functional for the operation of trains. It is not really a mitigation action but will reduce vibration and noise.

2. Mandatory environmental requirements (both Alternatives 3A (relocation) and 3A-1 (co-location))

The DEIS indicates that all mandatory environmental requirements such as wetland permits, waste disposal, erosion control, storm water runoff, construction noise, etc. will be met. This is not mitigation and is a basic requirement of any improvements.

3. Whistle Quiet Zone (WQZ) and noise mitigation (both Alternatives 3A (relocation) and 3A-1 (co-location))

A Whistle Quiet Zone along the MN&S and Bass Lake Spur is a base line mitigation requirement. However, it only addresses the noise from train horns, and is not the only train noise mitigation needed - especially with regards to the MN&S route. The noise of locomotives operating at maximum power to pull train cars up the steep grades; the noise from train cars banging together and separating as they are pulled up and down the hilly MN&S route; the squeals of train wheels on tight curves and the noise of idling trains on the BNSF siding waiting to access the BNSF mainline all need to be mitigated. The WQZ topic is discussed fully later in Section F of these comments.

4. Fencing & signage (both Alternatives 3A (relocation) and 3A-1(co-location))

The SW DEIS suggests fencing and signage to minimize pedestrian trespassing, but is not specific as to which areas would be included. Fencing is needed on both sides of all the tracks for safety. The tracks pass through single-family neighborhoods, neighborhood commercial areas and, past neighborhood parks and schools. The MN&S tracks expose these very walkable areas, with many children and many child-oriented facilities to safety risks. Fencing is needed to reduce these safety risks.

5. Improvements to reroute coal trains (both Alternatives 3A (relocation) and 3A-1(co-location))

The coal trains that pass through St. Louis Park originate in Wyoming and Montana and bring coal to a sugar plant in Renville west of the Twin Cities. Currently trains coming from Wyoming and Montana travel all the way into Minneapolis using the BNSF tracks before backtracking through the Kenilworth corridor and St. Louis Park west to the sugar plant. The empty coal trains return to Wyoming and Montana without passing through St. Louis Park or Minneapolis. They go directly west from the sugar plant to Appleton, MN, and interchange back to the BNSF line.

The loaded coal trains do not use the Appleton interchange because of track conditions on the west end of the TC&W. A track rehabilitation project to replace cross ties on the western part of the TC&W would allow for the reroute of the loaded coal trains and eliminate the need for the coal trains to pass through Minneapolis and St. Louis Park. TC&W has estimated that this project would cost about \$2 million. This is an important improvement that not only reduces train traffic and attendant negative impacts for both St. Louis Park and Minneapolis, but it makes freight rail movements more economical and reduces train traffic in the Target Field area.

6. Rail lubricators (Alternative 3A relocation)

Rail lubricators installed in the track are a mitigation to reduce wheel noise and rail wear on the tight curves of the MN&S route. Lubricators should be included on the MN&S route.

7. Concrete ties or other vibration reduction methods (Alternative 3A relocation)

Concrete ties rather than wood ties would allow for less vibration induced in to the ground, because of the larger mass of the ties. Concrete ties also work better in the tighter curves to hold gauge. Vibration and noise are significant issues along the MN&S route especially. The close proximity of sensitive land uses like homes, the St. Louis Park High School and commercial buildings that already experience problems from vibrations need to be addressed and mitigated if increased train traffic is to be accepted on the MN&S.

The Section 4.8.4 of the SW DEIS evaluation of ground vibration for the reroute uses the criteria “infrequent use” for locomotives and “occasional use” for rail cars. They determined that only one parcel is impacted from the expected vibration. The SW DEIS use of “infrequent” or “occasional” use by freight trains is not correct. Section 8.1.3 of the Transit Noise and Vibration Impact

Assessment is the section that discusses vibration impact criteria for freight trains. The guidelines require the use of “frequent” use as the guideline. This reduces the maximum impact allowed from 80 VdB or 75 DvB to 72 DvB. Using the graph in the MN&S Freight Rail Study (Exhibit 3, page 65), in Appendix H, the impacts should have been measured for all residential and commercial structures on parcels within 150 feet of the track. This needs to be evaluated under the correct criteria.

8. Elimination of all CP tracks east of Wooddale Avenue (Alternative 3A (relocation) and all siding east of Wooddale (Alternative 3A (relocation))

The Bass Lake Spur tracks do not extend east of Wooddale Avenue for any of the alternatives proposed in the SW DEIS that re-route trains to the MN&S tracks. TC&W railroad has indicated that unless a direct connection between the Bass Lake Spur to the MN&S tracks southbound is provided, TC&W will need track with enough space to accommodate 50-75 rail cars east of the existing switching wye connecting the MN&S tracks to the Bass Lake Spur. Space for 50 to 75 rail cars would require 3,000 to 4,500 feet of track east of the wye, which means freight rail tracks stretching east from the switching wye across Wooddale Avenue, across Hwy 100 and almost to Beltline Boulevard would be needed. This would have severe traffic and congestion impacts. A south connection from Bass Lake Spur to the MN&S tracks is needed to implement the SW LRT 3A (relocation) alternative in order to eliminate the tracks east of Wooddale Avenue. The need for the removal of the switching wye and providing the southbound connection from Bass Lake Spur to the MN&S tracks is described more fully later in the SW DEIS comments, in section D. This discussion focuses on the importance of eliminating freight tracks east of the Wooddale Avenue.

If the freight track remains east of Wooddale Avenue, SW LRT Alternative 3A (relocation) will have the same station/freight rail conflict issues as those presented by Alternative 3A-1 (co-location). Freight trains will interfere with the operations of the LRT stations and be a detriment to development in the area. One of the rationales for re-routing freight trains to the MN&S is to eliminate any detrimental impacts on stations and station areas created by the presence of freight trains. If trains are rerouted to the MN&S, it would be absolutely unacceptable to St. Louis Park to also be saddled with the burden of freight trains re-routed to the MN&S without the benefit of completely eliminating freight trains from the Wooddale and Beltline Station areas. Trains maneuvering through the switching wye would block Wooddale Avenue and Beltline Avenues more severely than trains continuing to use Kenilworth. At least the co-location trains would be simply moving through the area, whereas maneuvering trains would be stopping and starting. It would be noisier, more time consuming and much more disruptive to continue the maneuvering than to have trains moving through. Traffic delays caused by the trains crossing and re-crossing Wooddale Avenue and Beltline Boulevard and train cars potentially stored on these tracks would disrupt traffic, interrupt access to the SW LRT stations and create additional safety hazards.

9. Visual blight of an elevated structure to connect from Bass Lake Spur to the MN&S

Connecting the Bass Lake Spur to the MN&S tracks will require a very large elevated structure. It will be very visible certainly from Louisiana Avenue and Hwy 7, in addition to surrounding properties. No comprehensive evaluation has been done to show what the structure will look like, what the visual impact will be on surrounding properties and neighborhoods, or what the impact will be on development potential near the structure or the existing businesses. The structure will be roughly one-half of a mile long. The train roadbed will be nearly 45 feet above the street by the time it crosses Louisiana Avenue, and still rising to a higher point. It does not show the height of the train cars themselves. When a train is present, the overall height of the structure and train will be well over 60 feet, the equivalent of a 6 story building. The trains will tower over all of the existing structures in the immediate area and effect visibility.

While the presence of a SW LRT station at Louisiana is expected to enhance development opportunities, the presence of the massive rail structure and freight trains traveling on it high in the air will have an impact that the SW DEIS has not even acknowledged exists, much less attempted to evaluate. This is a critical issue that must be analyzed carefully, and if the MN&S route is chosen, it must be mitigated in some significant way. Without robust mitigation, the elevated freight trains and structure will deprive the SW LRT project of one of its most important potential benefits; major new private development and business investments. The Louisiana station serves one of the largest employers and the only hospital along the corridor. Park Nicollet Methodist Hospital is a major regional institution and a potential engine to drive new investment and job creation if the station area can provide an environment that is conducive to investment and growth. Elevated freight trains are a significant challenge to creating that environment. Mitigation needs to be included to address the potential adverse impacts.

10. Removal of switching wye (both Alternatives 3A (relocation) and 3A-1 (co-location))

The switching wye allows the trains to transfer between the Bass Lake line and the MN&S. This has been a source of noise for the City for many years. Removal of the switching wye is a requirement of the City's resolution 10-070 for the City no matter what freight rail route or SW LRT alternative is chosen. The switching wye is discussed more fully later in section D of these comments.

11. Connection to MN&S south (both Alternatives 3A (relocation) and 3A-1 co-location)

The proposed alignment in the SW DEIS does not address an efficient move of trains to the south. A direct south connection track is one of the steps necessary for the removal of the switching wye (discussed in greater detail in section D of these comments) and allows for an efficient train movement from the west to the south. It eliminates the multiple switching moves that are now necessary to make that move. This eliminates the potential noise, safety and traffic impacts caused by switching trains from the Bass Lake Spur to the MN&S track southbound.

12. Grade separated Hwy 7 north frontage road (Alternative 3A (relocation))

The additional trains on the MN&S will put pressure on traffic at the four at-grade street crossings near the High School and the Central Community Center – which houses several community programs including the Park Spanish Immersion Elementary School, Central Clinic, Early Childhood Family Education programs, Early Childhood Special Education, and Community Education programs. Today school buses shuttle between the two schools both in the morning and afternoon of school days. The schools are within three blocks of one another but on opposite sides of the MN&S tracks. Today only two trains a day use the MN&S tracks. They are very short trains, typically 10 cars or less. They do not usually pose a problem today for school bus operations, because they don't block all four local streets that provide access between the school sites at once. The trains travel at very slow speeds and cross the streets quickly. The trains proposed to be re-routed to the MN&S are more numerous and much longer. They have a much greater potential to block intersections and create delays and safety problems. Because the four street crossings in the vicinity of the schools are so close together, there is the potential for all four intersections to be blocked at once. Other social services such as STEP – St. Louis Park Emergency Program, are located in the area near Central Community Center; rerouted trains would also have impact on the low income and disadvantaged persons travelling between these services.

According to Table 2.3-2 in the SW DEIS on page 2-27, as many as eight trains would use the MN&S tracks on a given day if the MN&S route is chosen for freight rail. The table also says that the longest trains would be 120 cars or approximately 7,200 feet long (1.36 miles). Traveling at 10 mph, a 120 car train will take over eight to nine minutes to clear a single intersection. To clear all four intersections and for the crossing gates to re-open will take another four to five minutes, even a train as small as 26 cars would at one point be blocking all four intersections. The increased train traffic, from two very short trains a day to six to eight trains a day, only two of which have any realistic chance of being less than 26 cars, means disruption of school transportation will be a problem routinely. To provide a reliable route for school buses between the two schools, a grade separated frontage road on the north side of Hwy 7 should be built. The MN&S tracks would be bridged over the frontage road so that even when freight trains are blocking the existing local streets between the two schools, school buses could use the frontage road to cross beneath the trains and move between the two schools.

13. Create 100-foot minimum width corridor in single family housing area. (Alternative 3A relocation)

The area north and south of Minnetonka Boulevard on the MN&S has a railroad right of way width of 66 feet. This is an inadequate ROW for tracks that will be used more intensely than they are today. The mitigation of creating a 100-foot minimum width corridor is to expand the right-of-way to allow a larger safety zone around the tracks. A more complete discussion of this issue is provided later in these comments, in section E.

14. Pedestrian underpass to Dakota Park at 27th Street and 29th Street. (Alternative 3A relocation)

Alternative 3A (relocation) closes 29th Street. This leaves 28th Street as the only east-west access for the Birchwood and Bronx Park neighborhoods other than Minnetonka Boulevard which is a high traffic volume street at the south end of the neighborhoods. Vehicles using Minnetonka Boulevard simply to get from one side of the MN&S tracks to the other will be an added traffic problem for Minnetonka Boulevard and will present traffic safety problems.

The existing MN&S tracks are hilly and uneven. The increased train traffic and intended increased train speeds will increase the safety risks at any at grade crossings and especially in this area. On the west side of the MN&S, at the north end of the Bronx neighborhood is Dakota Neighborhood Park and dog park; and, Peter Hobart Elementary school. Access to the Cedar Lake Regional trail is also at this location. These are attractions and logical destinations for bicyclists, pedestrians, dog walkers, and children. There needs to be a safe convenient way for people to access these community attractions. An underpass construction in the 27th Street ROW would allow safe, direct access to Dakota Park, the regional trail access and Peter Hobart School that would at least partially mitigate negative impacts for pedestrians in the neighborhoods. A grade separated underpass at 29th Street could be used by vehicles and pedestrians and would mitigate the problems created by pushing local traffic from the Birchwood and Bronx neighborhoods onto the congested Minnetonka Boulevard.

15. Pedestrian overpass at Dakota Avenue (Alternative 3A relocation)

There are a high level of pedestrian movements in the Dakota Avenue area caused by the location of the high school and its facilities. This overpass would allow for an alternative route for pedestrians. The exact location is to be determined.

16. Mitigation for sound and vibration at SLP High School (Alternative 3A relocation)

The High School has expressed issues with the current train operations and is concerned about the impacts of an increase in train traffic. Trains passing the High School create noise and vibrations that affect school equipment like self-focusing equipment. This mitigation item would be to help make improvements to the building to help mitigate the noise and vibration.

17. Pedestrian bridge over Hwy 7 at MN&S

There are few accesses across Highway 7 and none between Wooddale Avenue and Louisiana Avenue. The MN&S rail bridge across Hwy 7 is a tempting way for people, especially kids, to cross Hwy 7 between Wooddale and Louisiana. The attractiveness to pedestrians of a bridge in this location should be acknowledged and in addition to construction of a new MN&S rail bridge, a bridge for pedestrians should be built in this location. It also could serve as a way to improve access to the Louisiana SWLRT station for people north of Hwy 7.

18. Underpass connecting Roxbury and Keystone Parks (Alternative 3A relocation)

The Roxbury and Keystone Parks are on each side of the MN&S track. With the increased traffic on the MN&S there will be increased risks for park users and concerns for the safety of people attempting to cross the tracks to reach the adjacent park. These are small neighborhood parks, and this means park users will be close to the tracks and the risks they represent. An underpass between the parks would allow for better, safer circulation between the two parks. It would serve as partial mitigation of the hazards created from increased rail traffic.

19. Beltline Boulevard Grade Separation (Alternative 3A-1 co-location)

Today traffic on Beltline Boulevard is experiencing delays; with the addition of a station at this location, additional traffic projected would add to the delays and congestion for vehicles, pedestrians and bicycles. With co-location of freight rail, light rail and a trail at Beltline Boulevard, vehicle traffic on Beltline would experience serious delays. Grade separation of freight rail would be of primary importance, in order for the LRT station to operate properly and serve riders who would be boarding at this station.

20. Grade separation at Wooddale Avenue (Alternative 3A-1 co-location)

Today the confluence of trail traffic, vehicles and freight rail makes Wooddale Avenue a busy, complicated crossing; with the addition of a SW LRT station and the SW LRT line there will be additional traffic. With co-location of freight rail, light rail and a trail at Wooddale Avenue, the potential exists for access to the station to be interrupted by the presence of a freight train. Grade separation for pedestrians over or under the freight rail tracks would mitigate the potential blocking of pedestrian access to the station by freight trains. This mitigation is needed in order for the LRT station to operate properly and serve riders who would be boarding at this station. Grade separation of Wooddale from the freight rail tracks would be another option to consider to mitigate this problem, however putting the freight tracks over Wooddale would result in a grade too steep for trains; putting the freight tracks below Wooddale is not possible because of other restraints like the need for the tracks to remain at an elevation that makes it possible to cross over Hwy 100.

C. Elimination of railroad switching, sorting and blocking operations within the City of St. Louis Park

The third condition for accepting re-routing traffic to the MN&S is Resolution 10-070 item 4c:

“c. Elimination of railroad switching, sorting and blocking operations within the City of St. Louis Park; and funded by some other source than the City of St. Louis Park;”

In addition to the switching wye in Skunk Hollow, there is a rail siding used to store and switch rail cars on the Bass Lake line. This track runs in the Bass Lake Spur right of way and is parallel to the Bass Lake Spur primary track. The use of the siding creates noise and safety issues for the City today; its continued use, once the SW LRT line is in place, will also interfere with the functioning of the LRT stations in St. Louis Park; and, the attractiveness of the areas immediately around the stations for transit-oriented development. All three of the City's stations, Louisiana, Wooddale and Beltline are potentially affected by the siding. The freight rail tracks are shown as removed to the west of Wooddale Avenue on the SW LRT concept drawings in the DEIS. It is important that not only those tracks are removed but all the sidings on the Bass Lake Spur near residential areas and station areas are removed. Storing and switching train cars in the Bass Lake Spur would have more severe negative impacts even than moving trains. Storing and switching entails more noise, takes more time, has more potential for blocking roads and pathways; and the potential for additional safety issues depending on what is stored or moved in rail cars in the area.

The mitigation for the problems presented by the siding tracks is to replace these storage tracks in a more compatible land use area outside of the City.

D. Switching wye must be removed

The fourth condition for accepting the re-routing of traffic to the MN&S is Resolution 10-070 item 4d:

“d. Removal of the existing “wye” rail tracks in the vicinity of Oxford Street and any other tracks not needed for through train traffic including the rail tracks east of any new interconnections between the East-West CP-TCWR tracks and the North-South CP-MNS tracks;”

Elimination of the “skunk hollow” switching wye, Bass Lake siding and providing a connection to MN&S South are not included in the SW DEIS but should be. Elimination of the siding and switching wye south of the Bass Lake Spur in the Oxford Street industrial area needs to be included in the SWLRT project. Without creation of a direct connection between the Bass Lake Spur to the MN&S southbound and removal of the switching wye, a rail siding stretching from the MN&S tracks to Minneapolis will be needed to accommodate 50 to 75 rail cars. This siding means freight rail cars will interfere with both the Wooddale and Beltline LRT stations and the noise from switching will affect the nearby Louisiana Station area as well. This will be the case no matter which freight rail route (MN&S or Kenilworth) is chosen.

The negative impacts will be more significant on the station areas and surrounding area from the siding track than from the through train track. The reason is that use of the siding track will involve storage of cars for long periods of time, idling of stationary locomotives and the noisy, time consuming process of maneuvering train cars from the Bass Lake Spur to the MN&S or vice versa, as the wye can only accommodate moving 10-15 cars at a time. While a freight train passing through a station area may interrupt transit activity for a few minutes at a time while a train passes by, a

switching procedure could take hours and stored cars may be in place for days to weeks. The noise associated with switching is significantly greater and more disruptive to the surrounding area than moving trains. It will be detrimental to the development potential of station areas also. Switching involves repeated train starts and stops; and the accompanying crashing of cars coupling and uncoupling, and the noise of locomotives accelerating. This will limit the development potential of the station areas nearby and decrease the potential ridership on the SW LRT.

Eliminating the switching wye and the siding on the Bass Lake Spur in the vicinity of the Louisiana Station also has the benefit of making the reroute connection from the Bass Lake Spur to the MN&S northbound easier and less impactful. The proposed connection from the Bass Lake Spur to the MN&S shown in the SW DEIS rises on a bridge structure up and over the Bass Lake Spur siding track and the proposed SW LRT tracks. This results in the connection being higher and steeper than would be necessary if the siding was not present. The clearance over freight rail tracks is greater than what is required for LRT tracks. Eliminating the siding means the structure for the freight rail connection to the MN&S tracks could be lowered reducing the steepness of the grade which in turn would reduce the noise associated with locomotives straining to pull trains up this steep grade.

Elimination of the Bass Lake Spur in the vicinity of the Louisiana station would benefit the station as well. With the siding in place, access to the LRT station platform is potentially more complicated. The presence of rail cars stored or being maneuvered on the siding limit visibility of the station and make the pedestrian connections for LRT passengers more difficult, much less inviting, and raises safety perceptions for riders using the LRT.

The SW DEIS shows only the potential connection of the Bass Lake Spur to the MN&S tracks northbound. No direct connection southbound is included. Technically, the northbound connection from the Bass Lake Spur to the MN&S tracks could be used as a means to access the MN&S southbound as another way to replace the need for the switching wye. Trains would go north, stop and change the locomotive to the southern end of the train, and then head south. This solution, while technically possible is completely unworkable. For starters, using the northbound connection to the MN&S to go south would require trains to travel north until they reached a location with a siding where the locomotive could be moved from the north end of the train to the south end of the train. There is no suitable siding, or r-o-w width in St. Louis Park on the MN&S. The trains would need to travel from the Bass Lake Spur north through St. Louis Park only to switch the position of the locomotive and then retrace the route back through the City. The railroads would never find this extra travel time and effort acceptable from an operational point of view; nor would the city find it acceptable from the perspective of negative impacts on the community by adding two needless trips north on the MN&S and increasing the amount of time trains are idling. Essentially the area north of the Bass Lake tracks would be exposed to all the negative impacts and risks associated with trains traveling on the MN&S twice for a train trip that was not intending to travel north in the first place.

For all the reasons highlighted above, a southbound connection between the Bass Lake Spur and the MN&S tracks is needed as part of the SW LRT project and should be addressed in the SW DEIS.

E. Significant right-of way must be provided

The fifth condition for accepting re-routing traffic to the MN&S is Resolution 10-070 item 4e:

“e. Creation of a freight rail single track corridor with significant right-of-way and safety measures incorporated between the track and adjacent properties;”

The MN&S corridor is narrow (66 feet) with a single track (much of it elevated) that winds through a neighborhood commercial area, past St. Louis Park High School, small neighborhood parks, and 70 modest single family homes within 50 feet of the centerline, mostly on 50 foot lots. The average estimated market value for homes along the MN&S right of way is \$179,000 in 2012. This is in stark contrast to the Kenilworth corridor which even today is generally wider than the MN&S corridor, with widths up to 160 ft. and as noted in the DEIS itself, is characterized by “high income” housing often on relatively large lots. The average home along the MN&S tracks is roughly half the value of the lowest valued homes along the Kenilworth corridor in Minneapolis.

The MN&S passes by St. Louis Park High School; Keystone, Roxbury and Dakota city parks, the local food shelf, publicly owned low-income housing, elementary schools, and the high school athletic field. The MN&S corridor includes several scattered site public housing units for low-income residents, the Kenilworth corridor includes “high income housing” and in some cases high rise housing. The modest income residents of the MN&S corridor are being asked to shoulder the responsibility to accommodate freight traffic without any significant mitigation while the high income Kenilworth residents are not only relieved of the burden of negative impacts associated with freight rail, they are given the benefit of having light rail service. The bulk of the homes along the MN&S route will be more than ½ mile from the nearest LRT station. The Kenilworth residents will see the negative impacts of freight rail replaced by the positive benefits of convenient light rail service.

The MN&S corridor is not well suited to handle significant levels of freight rail traffic and if the level of train traffic is going to increase the corridor needs to be widened to increase safety and to provide more buffer to minimize the negative impacts of freight traffic. If the MN&S corridor is to take the Kenilworth train traffic, the MN&S corridor should be widened to a minimum 100 feet in width. This is a critical mitigation that is not included in the SW DEIS and should be. Further comparison of the MN&S corridor and the Kenilworth corridors are provided in a separate attached document.

F. Whistle Quiet Zone

The sixth condition for accepting re-routing traffic to the MN&S is Resolution 10-070 item 4f:

“f. Creation of a whistle-quiet zone funded by sources other than the City of St. Louis Park throughout the entire north-south MNS corridor.”

A Whistle Quiet Zone (WQZ) is provided in the SW DEIS for the MN&S route as a mitigation measure intended to eliminate the most severe noise impacts from freight traffic. This is appropriate and important mitigation; however it does not resolve all the noise and potential adverse vibration impacts associated with train traffic increases on the MN&S. Nor is receiving WQZ designation for the MN&S tracks a forgone conclusion.

The Federal Transit Administration (FTA) has a prescribed process and rules to evaluate noise and vibration issues (Transit Noise and Vibration Impact Assessment). If noise or vibration exceeds certain standards for various types of land use, projects are required to mitigate those impacts. The SW DEIS noise and impact analysis (Sections 4.7 and 4.8) was done using the impact of light rail trains, not freight trains.

The SW DEIS proposes that a railroad WQZ is the only mitigation measure that is needed to bring the freight rail reroute alternative into noise level compliance. Other noise mitigation measures may be necessary to mitigate impacts of trains going up an incline and going through several curves. Quiet Zones are local initiatives meant to minimize train noise from whistles, but the program is administrated by the Federal Railroad Administration (FRA). If a community meets its risk index standards, Quiet Zones can be approved, however they are not a foregone conclusion.

Quiet Zones must be applied for by the local road authority but in areas with multiple jurisdictions, one road authority can be the lead agency. Bells located on the signals will continue to operate. The minimum safety devices at a crossing are railroad signals with gates. A risk assessment is done for each crossing and certain types of crossings may need additional safety improvements such as center medians or four quadrant gates.

A field study is required; the diagnostic team from the FRA, MNDOT, the railroad companies and the road authority will evaluate each crossing any potential improvements. The evaluation of the vehicles, roadways and train traffic is straight forward.

There are several areas that can make quiet zones difficult to implement including:

- i. The risk analysis is a mathematically based program that has a difficult time accurately reflecting large changes in either train or road activity. The formulas are influenced by previous crash histories that are not reflected if conditions change quickly.
- ii. The rules are not clear on how pedestrians should be considered. The FRA relies heavily on the engineering judgment of the diagnostic team. The team needs to evaluate how extensive the pedestrian movements are, the type of pedestrian groups (young children,

older people, mobility challenged, students, etc.), potential for trespassing on railroad property, attractive nuisances (shortcuts, bridges, other side of the track, etc.), sight distance of an approaching train, sight distance of a pedestrians and use time. Treatment of Quiet Zones for pedestrians has ranged from doing nothing, to installing a few signs, to very extensive fencing and control measures.

- iii. The rules do not address private crossings and what safety improvements should be done at them.
- iv. The FRA has the authority to rescind a quiet zone if there is a rise in crashes or incidents.

The train engineer also has wide latitude on when to use the horn in a quiet zone area. The engineer can sound the horn when:

- i. If there is track maintenance or other construction in the area;
- ii. If a potential dangerous situation is seen, such as a vehicle stopped on the track or pedestrian trespassers;
- iii. If crossing signals are malfunctioning.

It should therefore be understood that a whistle zone in and of itself does not mean horns will not be used. The railroad companies commented on this issue in their official comments on the MNS EAW and included:

From Canadian Pacific: “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.

From TW&W: “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.”

It is important to note that a WQZ will only address the noise associated with train whistles, bells and horns. It does not also address the noise from locomotives pulling trains up steep grades, squeals from trains moving through tight curves or noise from switching operations. These topics are all raised elsewhere in these comments (sections B-3, 6, 7). Noise from these sources is not adequately addressed in the SW DEIS and must be mitigated by some means if freight trains are to be re-routed to the MN&S tracks.

The crossings in St Louis Park are unique and the risk numbers for vehicles are relatively low but treatments for protecting the safety of pedestrians will be a challenge. A formal diagnostic team review should be done early in the Preliminary Engineering process to evaluate if a WQZ can be approved. The results of the diagnostic team's review should be considered when evaluating which alternative route for freight trains is the preferred and selected alternative. The City should not have to run the risk that the decision is made to relocate Kenilworth traffic to the MN&S tracks based in part on the understanding that a WQZ will be created, only to find out later that creating a WQZ is not approved. The WQZ evaluation must be done before a freight rail route decision is made.

II. LRT Related Concerns

A. Mitigation and Project Impact needs: Mitigation and specific project elements are needed for the LRT project, including:

1. Roadway system in station areas.

In St. Louis Park, additional roadway, bike and pedestrian access improvements will be needed to handle the additional circulation in the station areas. The increase in traffic in and around the station areas will require new access to the station, including a circulation system for drop off and parking, bike and pedestrian access, access for local business and residential traffic; this will likely include new infrastructure in and around the station areas to ensure a functioning transportation system.

2. Grade separation of the regional trail.

In either freight rail location alternative, grade separation of the regional trail needs to be considered at the Beltline Boulevard and Wooddale Avenue crossings. This is a heavily used trail (over 500,000 users annually) and will have a significant amount of vehicle traffic around the station areas.

The Cedar Lake LRT Regional Trail is shown to move from the north side of the rail to the south side of the rail at Wooddale Avenue. Walkers and bikers would have to turn south or north, and cross the tracks in order to stay on the regional trail. This movement is very awkward and needs to be remedied to become a straight, through route. Grade separation may be able to solve the crossing issue, if it is used to switch the trail to the other side of the trains. Grade separation of the trail would improve the crossing and could solve the crossing issue where the trail is shown to switch sides at Wooddale.

3. Maintain access to Lilac Park from the regional trail.

The regional trail is shown on the south side of the light rail tracks east of Highway 100. The new Lilac Park is on the north side immediately east of Highway 100. Access from the trail to the park for users would need to remain under all alternatives.

4. Trail/sidewalks should be provided along both sides of the LRT line for access to Lilac Park and other destinations along the trail.

The SW LRT will share its corridor with the Regional Trail through St. Louis Park. It will be on one side of the LRT tracks and in at least some locations freight rail tracks too. Supplemental trails or sidewalk should be provided on the side of the SW LRT corridor that does not have the Regional trail as a way to enhance pedestrian and bicyclist access to the stations and from the stations to surrounding land uses. In essence supplemental sidewalk/trails along with the Regional Trail would be the equivalent of having sidewalks on both sides of a street, providing safe accessibility for pedestrians no matter on which side of the SW LRT corridor they happen to be.

5. Noise from LRT crossing signals and train horns must be addressed.

SLP has many residents who live close to the LRT stations and will hear LRT bells and whistles. Mitigation should be implemented to minimize the sounds of the relatively constant bells and whistles, including incorporating design elements that reduce impacts on surrounding neighborhoods.

B. Potential Improvements to the SWLRT Project:

1. The Cedar Lake Regional Trail switches sides at Wooddale Avenue

The SW DEIS plans show the Regional Trail users would have to make two 90-degree turns and cross the rail tracks at Wooddale to stay on the trail. This is not practical for trail users and must be redesigned to provide a continuous connection on the trail.

2. An alternative alignment for the SWLRT line and location for the Louisiana Avenue Station using the switching wye should be evaluated.

Moving the SW LRT line south of its current planned location in the HCRRA right-of-way, possibly using the to be vacated switching wye right of way, would move the SW LRT much closer to Methodist Hospital, an employer of over 4,100 people, and into the center of the Skunk Hollow industrial area. Moving the SW LRT line and station slightly to the south in this area could serve this job rich location, boost SWLRT ridership, and reduce the need for on-site parking. It would also better serve residential areas and could spur new development

investments in the Skunk Hollow area. This idea needs to be evaluated in Preliminary Engineering.

3. An alternate alignment in the Beltline Station Area should be considered and evaluated.

The proposed Beltline Station location is just outside the desirable walking distance for several nearby major potential transit users. Moving the SW LRT line and station slightly south in this area could make the station more convenient to Excelsior Boulevard, the City's Rec Center, Park Nicollet Clinic, high density housing and the commercial uses along Park Center Boulevard and other retail and recreational destinations. This idea needs to be evaluated in PE.

III. DEIS General Concerns

The SW DEIS does not evenly evaluate and compare the alternatives 3A (relocation) and 3A-1 (co-location). Both alternatives are consistent with the designation of the Kenilworth route as the Locally Preferred Alternative (LPA) route for the SW light rail trains. The designation of the LPA in the Metropolitan Council's regional Transportation Policy Plan was for the light rail train route. The designation does not specify the location for freight train traffic, and, it was approved prior to the FTA's requirement to include freight rail routing in the SWLRT project and environmental analysis. It was clear during the LPA route selection process, freight rail rerouting was not a part of the analysis and was not discussed in any substantive way, and therefore was not a consideration in the LPA decision. Both alternatives 3A-1 (co-location) and 3A (relocation) re-route should be considered - and labeled as - LPA alternatives.

The SW DEIS does not evenly evaluate the alternatives as it does not specify the criteria or factors used to reach its summary conclusions, or provide data in the DEIS supportive of its conclusions. Because of the use of segments, data relating to 3A-1 (co-location) includes Segment A data, and Segment A extends all the way to downtown. This means the data is not accurately capturing the comparison between the freight rail alternatives. There is a lack of supporting detailed information for conclusions reached on such items as wetlands, floodplains, park land, and community cohesion, acquisition of properties, capital costs, and economic impacts among others. For example, the total amount of wetland impacted in alternative 3A-1 (co-location) is .9 acres, versus 2.9 acres for alternative 3A (relocation) according to table ES.1. Yet, Table ES.2 concludes that alternative 3A-1 (co-location) "does not meet the goal" of protecting the environment and alternative 3A (relocation) is show as "some meets the goal." This evaluation does not follow the data presented; its conclusions are erroneous.

In addition, the potential impacts of increased freight rail traffic along the MN&S are minimized, such as the evaluation of impacts on community cohesion, or the evaluation of potential adverse environmental impacts associated with each alternative. In the evaluation of the potential adverse environmental impacts associated with the 3A-1 (co-location) alternative in Chapter 11 of the SW

DEIS, it is stated on page 11-12 that acquiring “primarily high quality, high income multi-family housing by the West Lake Street station,” is inconsistent with state, regional and local policies. What the policies are that guide acquisitions for clearly public purposes (public transit in this case) away from high income family housing are not provided. There is no explanation of why high income matters, and if it does, in the case of acquisitions for public purposes. It seems to imply there is a higher value to “high income” housing, than to what housing is impacted by freight rail relocation.

Beyond the failure of the SW DEIS to meet the requirements of the City of St. Louis Park’s Resolution 10-070, the City of St. Louis Park has many other concerns with regards to the SW DEIS. The specific concerns are described below.

A. New goal and the State Rail Plan Rationale inappropriate for SW LRT DEIS

The SW DEIS introduces in Chapter 1 Purpose and Need, a new goal - Goal 6 – “To support an economically competitive freight rail system,” which relates to freight rail and the State Rail Plan. This is inappropriate because:

1. This goal was not adopted through any public process.
2. The rationale and description for constructing connections to the MN&S tracks and re-locating freight rail to the MN&S has been broadened to be consistent with the new Goal 6. It essentially states that one of the reasons for choosing alternative 3A (relocation) is that it helps implement the State Rail Plan, provides opportunities for TC&W trains and possibly other railroads to reach places other than where TC&W trains are going today; yet the SW DEIS does not anticipate any increase in train traffic on the MN&S or evaluate the impact of trains going north of the BNSF tracks in St. Louis Park, Golden Valley and beyond. The potential impact from possible additional train traffic is reason for more robust mitigation along the MN&S route.
3. All of the alternatives in the SW DEIS would need additional evaluation with this new goal; previously action was only taken on the LRT routes, not freight rail routes.
4. This DEIS is supposed to be about the SW LRT project not the State Rail Plan; introducing this element is inappropriate for this plan and the SW DEIS.
5. The new goal introduces many questions and complications about the impacts of the State Rail Plan; including the references to intercity rail on the MN&S tracks.
6. Several other communities are impacted by the introduction of the State Rail Plan and suggestion that TC&W trains will use the CP Humboldt Yard; those cities that the MNS travels through include: Golden Valley, Crystal, Edina, and Bloomington, and they were not included in the SW DEIS process.
7. Passenger rail along the MNS is discussed in the State Rail Plan and therefore would need to be addressed in relation to rerouting freight trains on the MN&S.

B. Comparison of Freight Routing Alternatives is Incomplete

Freight rail routing impacts are not adequately addressed or accurately evaluated in the reroute alternative 3A (relocation); the evaluation

1. Cost Comparison

The total cost in 2012 dollars for alternative 3A-1 (co-location of freight rail) is shown to be \$22,866,000 more than alternative 3A (re-routing freight rail to the MN&S) in corrected Table 8.1-1. However insufficient detail and supporting information is provided to evaluate these numbers. The cost of 3A (relocation) does not include what would be required to address the impacts and issues related to relocating on the MN&S, or any compensation to railroads for additional operations and maintenance costs.

2. The evaluation of construction impacts appears arbitrary and impacts are not explained.

The evaluation table in Chapter 11 shows construction impacts as “medium” in the relocation alternative (3A) versus being shown as “high” for the co-location alternative (3A-1), even though relocation of freight would have far more construction complexity and cost than co-location; with the construction of a major bridge structure near Louisiana Avenue, a new track structure in the Iron Triangle connecting to the BNSF r-o-w, and a new 11,000-foot long siding on the BNSF r-o-w in St. Louis Park and Minneapolis. Some reconstruction of freight tracks in the Kenilworth corridor for co-location would be relatively minor in relation to the construction required to make relocation work.

3. Community Cohesion inaccurately portrayed

“Community Cohesion,” the evaluation of how freight rail and LRT lines will split neighborhoods is shown in table 11.1-1 page 11-5 as having “no impact” for the relocation alternative (3A) versus “slight adverse impact” in the co-location alternative (3A-1) - even though both the MN&S and the Kenilworth corridors experience freight rail traffic today, and, the Kenilworth traffic today is the train traffic that would be rerouted to the MN&S tracks. The same train traffic corridor has been judged as having a negative impact in the Kenilworth and as having no impact in the MN&S corridor. This is despite the fact that rerouting to the MN&S corridor will involve the actions and impacts listed below.

- i. The changes needed to accommodate the increased and rerouted trains includes closing of at least one local street, 29th Street thereby reducing the accessibility across the MN&S tracks for vehicles, bicycle and pedestrians. The neighborhoods affected by closing 29th Street are otherwise served by a traditional grid of neighborhood streets. (This is further described in section B.14 of these comments above).
- ii. The closed 29th Street north of Minnetonka Boulevard means reduced accessibility for an approximately 30 block neighborhood east of the MN&S tracks to Hobart School,

Dakota Park and access to the Cedar Lake Regional Trail immediately on the west side of the MN&S tracks.

- iii. The MN&S tracks wind their way through the Walker Street/Library Lane/Lake Street commercial area. In one case they literally pass through an intersection on a diagonal, resulting in the potential for trains to block both streets at once, creating inconvenience for pedestrians and drivers and adversely impacting local businesses. This same area is home to the High School, the Spanish Immersion Elementary School, STEP (the local food shelf and service organization) the High School's athletic fields and stadium, in addition to a block of businesses along Lake Street. While trains travel through and disrupt this area today, the volume is extremely low: two trains of approximately 10 cars each per day. The trains that would be relocated to the MN&S are 4 to 6 trains a day and 30 to 120 cars in length. This is a significant increase in potential disruption to community cohesion.
- iv. By comparison, virtually none of these conditions are present in the Kenilworth corridor or in the section of Bass Lake Spur east of the MN&S tracks. No streets are proposed to be closed in these areas if freight traffic remains in Kenilworth, no schools are located adjacent to the rail ROW, and the tracks do not bisect any commercial areas.

4. Conclusion regarding continuous flow of freight rail is inaccurate

The DEIS concludes in Chapter 11 table 11.1-1, page 11-7 that the relocation alternative achieves "continuous flow of freight rail throughout the study area" and that the co-location alternative does not. This is not true. Both routes for freight trains are continuous to TC&W's current destinations. Neither alternative 3A (relocation) nor 3A-1(co-location) allows "continuous flow" to the destinations that TC&W railroad hopes to reach in the future. Neither alternative provides a direct connection southbound on the MN&S which is the route TC&W wants for future access to the grain terminals to the south.

The SW DEIS presumes that TC&W would benefit from being able to access the MN&S and use it to reach places to the north that it does not seek to go. Chapter 1, pages 1-11 and 1-12 state that alternative 3A (relocation) would improve access to the Humboldt Yard for TC&W via the MN&S and that access to Humboldt Yard would be a better destination for TC&W trains than its current destination, St. Paul. This is stated despite the fact the MN&S tracks would result in a circuitous and time consuming route to reach TC&W's desired location, St. Paul. Use of the MN&S to reach either St. Paul or the Humboldt Yard would have negative impacts on St. Louis Park; the at grade crossing of Cedar Lake Road in St. Louis Park would be affected and was not studied for impacts, for instance. Impacts on other communities along the route beyond St. Louis Park were also not shown in the SW DEIS. The SW DEIS presents no evidence that the TC&W has any interest in reaching the Humboldt Yard or using the MN&S as a means to reach St. Paul.

The DEIS also states in Chapter 1, page 1-12 that the new connection to the MN&S proposed in alternative 3A (relocation) would improve access for TC&W to Savage on the Minnesota River. This is not true. The connection to the MN&S proposed in the SW DEIS is only a connection to MN&S northbound. This is not an improvement for trains seeking to go south on the MN&S; and if it were used for that purpose it would increase the negative impacts of freight traffic on the MN&S as explained earlier in these comments in section D. Only adding a direct connection to MN&S southbound from the Bass Lake Spur and elimination of the Skunk Hollow wye would be an improvement in the continuous flow of freight rail traffic, and that is not part of any of the build alternatives considered in the SW DEIS.

5. Improve mobility goal evaluation inaccurate

The SW DEIS shows in Chapter 11, Table 11.2-1, page 11-9 that Alternative 3A, relocating freight trains, “supports” the goal of improved mobility while alternative 3A-1 (co-location) is shown as only “somewhat supports” this goal. Both alternatives support mobility. There is no difference in ridership, user benefits, travel times or cost per passenger mile between the alternatives 3A (relocation) and 3A-1 (co-location). Both should be judged as supporting mobility.

6. Protect the environment goal conclusion incorrect

This goal is shown for alternative 3A (relocation) in Chapter 11, Table 1.2-1, page 11-9 as “somewhat supports goal” vs. being shown as “does not support goal” for alternative 3A-1 (co-location) even though the data shows more wetland and floodplain impacts, among other items, for the relocation alternative. How this conclusion is reached is not documented.

For Wetlands and Floodplain (4.2.2.1), Alternative 3A-1 (co-location) clearly has less impact on wetlands and floodplains. Construction of the Iron Triangle connection from the MN&S tracks to BNSF in Alternative 3A (relocation) is in both a wetland and a floodplain area and is shown to affect two acres more wetland and two acres more floodplain than alternative 3A-1 (co-location); it is difficult to understand why the environmental goal conclusion does not account for this data.

The taking of .81 acres of Cedar Lake Park is shown in Table 11.1-1 under the Protect the Environment goal; however the SW DEIS does not show where this land is and does not give support for why it must be taken. The SW DEIS also does not show that the Cedar Lake bike trail could be rerouted, which could allow the park land to be avoided, rather than “taken.”

Regarding Groundwater (4.1.3.4), the SW DEIS has identified potential groundwater issues near Minnehaha Creek. The reroute alignment proposes a major railroad bridge in this area that will require substantial footings and piers. The SW DEIS table (ES-1) does not identify this as an area of potential major impacts to the ground water. These major structures would not be required in the co-location alternative.

7. Preserve and protect the quality of life goal inaccurately judged

This goal is shown for Alternative 3A (relocation) in Chapter 11, Table 1.2-1 as “support goal” vs. being shown as “does not support goal” for Alternative 3A-1 (co-location). It is stated that co-location would “divide neighborhoods” in the Kenilworth neighborhood. This seems to be a completely arbitrary conclusion. Equal train traffic will have similar impacts on adjoining neighborhoods no matter which neighborhood it passes through. See the Community Cohesion discussion above. Increased freight rail traffic on the MN&S tracks will have at least as disruptive an impact on “community cohesion” on neighborhoods and Lake Street area businesses as maintaining freight rail in the Kenilworth corridor.

The other specific evaluation measures listed in Table 11.1-1 on page 11-5 for this goal are property acquisitions and environmental justice. It is difficult to understand how acquisition of property relates to the quality of life goal. The question should be: what are the quality of life impacts on the residents, businesses and the community once the SW LRT project including freight rail improvements is built, not whether property is acquired to implement the project. Nonetheless, the property acquisition totals included in Table 11.1-1 overemphasize the acquisition impacts for the 3A-1 alternative and under represent them for the 3A (relocation) alternative. The 3A-1 (co-location) alternative assumes a full taking of the 57 unit townhome development along the proposed co-location freight rail tracks in the Kenilworth corridor. Acquisition of all these townhomes adds nearly 200 feet of right of way in this section of the Kenilworth corridor. While the exact location of the freight rail tracks in a co-location alternative is not yet known, it is clear that the full width of the townhome property would not be needed to accommodate the 3A-1 and create a minimum 100 foot wide corridor.

Conversely, in the SW DEIS alternative 3A (relocation) and all the alternatives that include relocation of freight rail to the MN&S tracks do not include acquisition of 42 homes that are within 50 feet (in some cases much closer) of the center-line of the MN&S tracks. These acquisitions should be included in the mitigation for the 3A alternative and in the count of acquisitions included in Table 11.1-1.

Neither alternatives 3A (relocation) nor 3A-1 (co-location) meet the standard for finding a disproportionate impact on minority, low income or transit dependent populations. However, there is no question that the socio-economic characteristics of the MN&S and the Kenilworth corridor are very different. Kenilworth homes are clearly higher valued than homes along the MN&S tracks, but regardless of income levels or home values the presence of freight trains have the potential to be detrimental to quality of life and the SW LRT project should include efforts to mitigate those potential negative impacts. This is especially true for the properties along the MN&S tracks. They are being asked to endure the negative impacts of increased freight rail traffic so that others can benefit of LRT within easy walking distance of their homes. Kenilworth properties would be asked to continue to endure the freight rail traffic they have today, but gain the presence and access to LRT.

8. Support for economic development goal analysis is incomplete

This goal is shown for Alternative 3A (relocation) in Chapter 11, Table 1.2-1 as “supports goal” vs. being shown as “somewhat supports goal” for alternative 3A-1 (co-location). The evaluation of the performance of the SW LRT alternatives overestimates the impact of freight rail on alternative 3A-1 (co-location), and underestimates the impact of freight rail on alternative 3A (relocation).

Five LRT stations would be affected by the presence of freight trains if the co-location alternative (3A-1) were implemented. Freight train traffic has the potential for negative impacts on the development opportunities near these stations. However two of the five stations have limited development opportunity already. The Penn station already is difficult to access and must contend with the presence of BNSF freight rail traffic no matter which alternative SW LRT route is chosen. These conditions make development opportunities more challenging whether or not freight trains travel on the Kenilworth corridor.

The 21st Street station also has limited development potential. It is in a fully developed single family neighborhood with limited opportunities for new development. It has a ridership shed that is almost completely to the east of the LRT tracks. Access to the station at 21st Street from the east would not be hindered by the presence of freight trains on the west side of the LRT tracks.

The other three stations also have with one dominant side to the station areas. West Lake, Beltline and Wooddale all have the greatest opportunities for new development on the south and east side of the LRT station. This reduces the negative impacts of freight train in these station areas. Two LRT stations in Hopkins are co-located, yet the SW DEIS does not indicate any negative impacts to those station areas in development potential.

With regards to Alternative 3A (relocation), the evaluation of this goal did not consider what impacts increased train traffic on the MN&S would have on development opportunities, nor did it consider what the negative impacts of the structure needed to connect the Bass Lake Spur to the MN&S tracks would have. Between Hwy 7 and Brunswick Avenue in St. Louis Park, the MN&S tracks wind its way past several commercial properties and businesses. Virtually all of the adjoining properties in this area are less than 50 feet away from the center line of the tracks. Many are less than 25 feet away. They experience noise and vibrations today that are detrimental to their economic strength. Increasing the train traffic significantly has the potential to be detrimental to these properties and businesses.

The new structure needed to connect the Bass Lake Spur to the MN&S tracks not only requires the permanent acquisition of nearly 3 acres of commercial/industrial land and the relocation of at least one business from St. Louis Park, the structure itself will make station area development in the Louisiana Station area more difficult. Property would be taken off of the tax rolls for a reroute, reducing the economic development and redevelopment opportunities in the immediate

area. The proposed structure connecting the Bass Lake Spur to the MN&S tracks is a very large elevated structure that will have negative visual impacts on the surrounding area in general and the development potential of the Louisiana station area specifically. These impacts were not taken into consideration in the evaluation of alternative 3A's (relocation) of the support for economic development goal.

9. Support economically competitive freight rail system goal evaluation inaccurate

This goal is shown for Alternative 3A (relocation) in Chapter 11, Table 11.2-1 as "support goal" vs. being shown as "does not support goal" for Alternative 3A-1 (co-location). This was not a goal identified, discussed or endorsed in the SW LRT technical advisory or policy advisory committees of the SWLRT project during the Alternatives Analysis or the SW DEIS process. Even so, it is difficult to understand the rationale for why Alternative 3A (relocation) is shown as "supports goal", while Alternative 3A-1 (co-location) is shown as "does not support goal". Both alternatives are shown as providing "safe, efficient and effective movement of freight throughout the region, state and nation" according to Table 11.1-1. However, Alternative 3A (relocation) is shown to provide "continuous flow of freight rail throughout the study area" and Alternative 3A-1 (co-location) is not in Table 11.1-1. This is an error. Both routes for freight rail provide continuous flow of freight rail throughout the study area. Both routes provide a means for the TC&W trains to get to their current destination.

The goal of improving access via the MN&S tracks to places north of the BNSF tracks is outside of the SW DEIS study area and is out of place in the SW DEIS. Furthermore no impacts from trains traveling north of the BNSF tracks have been addressed. The TC&W has indicated that they do not have any interest in going north of the BNSF tracks to access the Humboldt Yard to interchange their normal trains. The TC&W trains are headed to St. Paul and the Humboldt Yard is not a desirable alternative destination.

10. Operational functionality for the railroads

The SW DEIS uses the engineering designs for freight rail routes that were previously prepared outside the SW DEIS and SW LRT design process. The MN&S freight rail route is the route used in the vacated Hennepin County's EAW on the freight railroad reroute. The Kenilworth co-location route is the route prepared by SEH for the City of St. Louis Park as part of the City's previous investigation on the potential for freight rail co-location. The SW DEIS did not advance the engineering or analysis on either option in order to resolve issues or identify impacts to provide a fair comparison. Further analysis and design is left for the Preliminary Engineering contractor. Both options will be studied during the PE phase and any evaluation of the alternative routes in the SW DEIS at this point in the process is less than complete.

Many rail operation questions regarding the MN&S for re-routing Kenilworth freight trains have been identified previously and are not addressed in the SW DEIS but will need to be. Among them are the following.

- a. How will the railroads handle delays in getting on to BNSF track from the MN&S? Do railroads have to be paid for this access? There is no train operational analysis to show that the reroute is a workable alternative. A train operation model would show if the longer trains can navigate the curves and grades or will require additional locomotives, possibly using distributive power (DPU). (TC&W's locomotives are not setup to operate as DPU).
- b. There are tight curves and steep grades not usually associated with mainline operations. There are grades well in excess of 1 percent. There are no track profiles included in the SW DEIS to understand the impacts and what the grades would be.
- c. The Canadian Pacific Railroad (CP) and the Twin Cities & Western Railroad (TC&W) both submitted comments during the EAW process that show major issues with the reroute design. The SW DEIS does not address any of those concerns. Are there any agreements with the railroad companies regarding the reroute already in place?
- d. The CP and TC&W have indicated that they would not accept ownership of the new structures; it is unclear what entity would own and maintain the track and structures, and no indication of what it would cost.
- e. The EAW and SW DEIS anticipates that the MN&S track would be out of service for up to 1 month during construction, which is unacceptable to CP and its customers.
- f. The EAW showed the bridge for moving freight rail over the LRT and connecting to the MN&S would have a vertical clearance of just 20' 6" over the track; Minnesota statutory requirement for clearance is 22'. This means the bridge for freight rail would have to be even higher than currently shown.
- g. The SW DEIS did not provide any additional noise and vibration field data that would help calibrate the noise and vibration models. During the EAW process, the models were based on limited data on current MN&S trains and did not use long, heavy train data or provide accurate information on impacts. It also did not include inclines and curves in its analysis; or review the potential noise and vibrations from trains idling on the proposed new BNSF siding.
- h. A derailment study should be done to determine the risk of the trains transferring to the MN&S.
- i. The LRT drawings in the SW DEIS show that freight tracks will terminate at Wooddale Avenue. The TC&W has indicated that they will need track east of the Skunk Hollow wye to switch about 60 car trains from the south. The DEIS must include elimination of the skunk hollow switching wye and provision of a south connection to the MN&S for this to happen. It is not shown.
- j. The reroute for the TC&W trains works only for north or east bound trains. The movement to the south towards Savage is still inefficient and very difficult to accomplish. Unless a new southern connection is made to the MN&S, the railroads would be required to maintain the Skunk Hollow wye or use the new siding along the BNSF to run around the train to access the MN&S south. The railroad operators would not agree to this movement, and it would have an impact on the BNSF tracks. The going north to go south movement would require

the southbound trains to pass through the MN&S track twice and the approval of the BNSF. Neither of these issues is discussed in the SW DEIS. If the Skunk Hollow wye is eliminated, there is a customer west of Louisiana that would have its rail access severed and would have to be relocated.

- k. If the reroute alternative is chosen, there should be several modifications to the grades, curves and right of way needed to improve safety and operations.
 - 1. The minimum right of way should be 100 feet wide.
 - 2. The curves and grades need smoothing to minimize the roller coaster affect.
 - 3. The area near Louisiana Avenue should be rethought. Assuming that there are no freight tracks east of the existing MN&S bridge the LRT and reroute grades could be adjusted to lower the overall height. The depth of structure should also be reviewed to lower the height.

11. Circulation in the Minnetonka Boulevard area

There should be a circulation study in the area north of Minnetonka Boulevard to evaluate how to minimize the impacts of the proposed closing of 29th Street, including looking at new bridges, pedestrian trails and noise buffers.

12. Impacts of areas adjacent to Iron Triangle and new siding on BNSF

The reroute has a major impact to wetland and flood plain in the iron triangle area (section g above). Presumably, this is why the tables show an increase of two acres in impact to the wetlands and two acres to the floodplain over the co-location alternative. The north edge or the iron triangle also forms the boundary of the known peat deposit. This peat deposit could easily extend into the wetland and could require extensive geotechnical treatment that may impact additional wetland or flood plain areas.

Important to note is that the track profile is 1.5 % in this area. This violates normal mainline railroad design guidelines. To resolve the profile issue, the track may need to rise, resulting in a much greater impact. Table 4.2.2 suggests that a bridge over the wetland as a potential mitigation measure but the plans or capital cost estimate do not include the cost of this structure.

The iron triangle area is also a difficult area to access for construction. There is no analysis of impacts to the environment for construction access to this area. The only non-wetland public access is via the Cedar Lake Trail.

13. Segment data

Because of the use of segments for specific areas in the SW DEIS, data relating to 3A-1 (co-location) includes Segment A data, and Segment A extends all the way to downtown

Minneapolis. This means the data is adding too much information to the freight rail comparison and not accurately capturing the comparison between the freight rail alternatives.

14. Train and rail-car counts need documentation

Table 2.3-2 states existing number of trains on the MN&S tracks are one round trip train of 10 to 30 cars daily. There is no back up documentation to support this statement. The MN&S Freight Rail Report is given as the source for the information in the table, however there is no source or documentation for these numbers footnoted in the MN&S Freight Rail report either. The DEIS should establish by actual train and rail car counts the current level of freight rail traffic on the MN&S tracks. This is important base information needed in order to understand the impact of rerouting trains from Kenilworth to the MN&S. Experience in recent years suggests that the typical trains on the MN&S tracks are much shorter than 30 rail cars in length. Ten to 15 rail-car trains and sometimes even shorter trains are typical on the MN&S five days a week today.

The number of trains and number of rail-cars stated in Table 2.3-2 is also noted as from the MN&S Freight Rail Report and should be updated with better and more fully documented information. Bob Suko, with TC&W indicated that a more accurate description of the TC&W rail operations today (12/14/12) would be the following.

- Six to seven days per week regular train service with 65-75 cars both ways
- 110 car unit grain trains at about three per week assuming 1.5 loaded and 1.5 empty per week
- Ethanol is 80 car units between six to eight per month 1/2 empty and 1/2 loaded
- About 12-15 unit coal trains annually, no empty return
- About 12-15 loaded DDG unit trains annually

The significance of these numbers and importance of accurate numbers, is that the greater the number of trains and rail cars the more noise, vibration and disruption in the communities where the trains travel. There is no guarantee that future conditions will be the same as current conditions, but they are at least one indication of the train traffic that the communities will experience. Today the MN&S tracks are handling something on the order of 150 rail cars a week. If the TC&W trains currently operating in Kenilworth are rerouted to the MN&S that would mean the MN&S would experience an additional 1,300-1,500 rail cars per week, a 1000% increase.

C. Traffic Impact Comments

1. Transit Effects

The transit ridership was prepared using standard, accepted methods available at the time the draft was prepared. Station boardings are provided for each station in Appendix H, but no conclusions can

be drawn specific to the reasonableness of those estimates. It is our understanding that the transit ridership will be updated as part of the design phase using newly available information for the FEIS, such as the 2010 Transit On Board Survey.

2. Effects on Roadways

The initial comment regarding a single growth factor was not addressed in the revised DEIS. The year 2030 traffic forecasts were developed by applying a growth factor to the existing (year 2010) traffic volumes. The regional model was used to determine growth, but a single 1.12 factor continues to be applied along the entire corridor. Generally, it can be expected that this approach would understate developing area growth and overstate fully developed area growth, but specific roadways may be differently affected. A “risk assessment” approach could be used at intersections with failing or near-failing levels of service to determine the extent to which a higher growth assumption would affect the conclusions of the analysis.

An existing and future intersection operations analysis was completed using the Synchro/SimTraffic software. It is stated that Synchro/SimTraffic does not have the direct capacity to model LRT. The Southwest Transitway DEIS – Traffic Analysis Update in Appendix H also states that each station and the impacts on operations and circulation will be addressed in a detailed analysis as part of the FEIS. It is our understanding that VISSIM will be used to better assess LRT operations in the design phase of the SW LRT.

The operations analysis completed for year 2017 and 2030 build conditions identified intersections that are expected to operate at an unacceptable level of service. Further analysis of the potential mitigation measures will be addressed in the FEIS.

The Southwest Transitway DEIS – Traffic Analysis Update in Appendix H includes assumptions related to future LRT and freight trains operating in the Kenilworth corridor. The operations analysis assumes a freight train with 30 cars at 60 feet each, traveling at 10 mph. This results in 150 seconds for a freight train to cross an intersection. According to field observations conducted for the City in 2011, a freight train traveling across Wooddale Avenue and Beltline Boulevard required 10 minutes of vehicular delay during the morning peak hour. The significant difference between the observed delay and assumed delay for a freight train crossing could have a measurable impact on the operations analysis results for 2018 and 2030. In addition, the Southwest Transitway DEIS – Traffic Analysis Update results state that “these queues are not anticipated to impact the signal operations at the high volume intersection of CSAH 25 and Beltline Boulevard.” Further analysis of this issue should be addressed as part of the FEIS.

The At-Grade Queue Analysis in Appendix H includes the details of the queuing impacts related to various freight train lengths. This technical memorandum dated May 31, 2012 was completed after the Southwest Transitway DEIS – Traffic Analysis Update (March 21, 2012). This analysis further evaluated the 30-car train at 10 mph, in addition to a 120-car train at 10 mph. The results of the 2010

and 2030 analysis identified significant queues impacting adjacent intersections along the Wooddale Avenue and Beltline Boulevard corridors for the 30-car and 120-car scenarios. The general note summarizing the analysis states that “a scenario in which a (LRT) train arrives during this relatively short timeframe is possible, but would likely be a relatively rare occurrence.” As previously stated, further analysis of this issue should be addressed as part of the FEIS.

The Operational Impacts at Intersections section describes the analysis conducted to identify LRT impacts on intersection operations to determine “how well intersections function to move traffic and pedestrians”. However, this section is limited to vehicular and freight rail traffic. The Southwest Transitway DEIS – Traffic Analysis Update in Appendix H states that pedestrians were not modeled due to low pedestrian counts. The impacts on pedestrians and bicyclists traveling through the intersections and roadways near the LRT stations should be considered in the FEIS. This should also include impacts on the regional trail at-grade crossing in close proximity to the future LRT alignment.

D. Vacated EAW and other Processes

The re-routing of trains from Kenilworth to the MN&S tracks is not a new idea. It is a concept that was the focus of an EAW that was prepared and submitted in 2011 and vacated later that year. While that process is not acknowledged in the SW DEIS, it appears that the design for the re-route proposed in the SW DEIS and the evaluation of that design is identical to the work done for the vacated 2011 EAW, with no new analyses. In 2011 the City carefully reviewed the EAW and found it to be inadequate. The City hired its own independent consultant (SEH) to help review the EAW, identify potential alternative routes for freight rail and analyze the potential of freight rail in both the MN&S and the Kenilworth routes. One of those alternative Kenilworth routes formed the basis for the SW DEIS co-location alternative (Alternative 3A-1). Since the SW DEIS essentially incorporates the 2011 EAW and SEH concept plan, the City is submitting as part of its comments on the SW DEIS, its comments on the 2011 EAW and the four technical memos prepared by SEH regarding freight rail and the freight rail alternative routes. All of the materials St. Louis Park previously submitted are attached.

E. Freight Rail Easement Description in Error

In the Implementation of Freight Rail Relocation section of Chapter 2, page 2-27, the DEIS says that “A perpetual easement across the remediated property for the proposed freight rail connection was granted by Hennepin County to the City of St. Louis Park....”. This is incorrect. The City was required as a condition of an Environmental Remediation Fund (ERF) grant to secure an easement for the area anticipated to be needed for connecting Bass Lake Spur to the MN&S. The City holds the easement which was granted by the redeveloper of the former National Lead site. Real Estate Recycling received contamination cleanup grants from Hennepin County, the Metropolitan Council and the State of Minnesota, as well as tax-increment financing from the City of St. Louis Park so as to facilitate the construction of the *Highway 7 Corporate Center* on the north portion of the

property. As a result of that redevelopment project, the City of St. Louis Park holds the easement for rail purposes across the southern portion of the site. If the easement is not needed for a rail re-route connection, it is anticipated that the easement would be released making it possible to construct another building in the southern portion of the site. The easement was secured by the City of St. Louis Park in 2006.

The area included in the easement was based on the plan included in the 1999 St. Louis Park Railroad Study. It is important to note that the 1999 St. Louis Park Freight Rail Study contemplated that the complete connection between the Bass Lake Spur and the MN&S could be accomplished in existing right of way and an easement across the former National Lead site. The improvement was expected to involve new track starting at Louisiana Avenue and continuing east toward the MN&S tracks, eventually curving to the north and connecting with the MN&S tracks just before (to the south of) the railroad bridge over Hwy 7.

The project as proposed in the DEIS is dramatically bigger than what was anticipated in 1999. It starts roughly 2000 feet west of Louisiana Avenue instead of at Louisiana Avenue. It requires the taking of temporary and permanent easements; and, acquisition of property and relocation of businesses on the south side of the Bass Lake Spur right of way that was never anticipated in 1999. It requires the construction of a new bridge over Hwy 7, and construction of new MN&S track south of Hwy 7 for roughly 1000 feet, neither of which was anticipated in 1999. These actions are in addition to using the easement secured and held by the City of St. Louis Park.

The history of how TC&W trains came to be in Kenilworth in the late 1990s and what role the MN&S alternative route played in that decision may be hard to sort out. Many people have different opinions of what the history of that decision is, but it is absolutely clear that the scope and character of the project to connect the Bass Lake Spur to the MN&S tracks is dramatically different from what was envisioned in the late 1990s. That is a key reason why a complete and accurate evaluation of the actual specific current proposal should be the basis for a decision on the appropriate SWLRT alternative. The project envisioned over 10 years ago is not the project proposed today.

F. Comments on the 12/12/12 DEIS update regarding questions from the Surface Transportation Board

The Surface Transportation Board (STB) is an economic regulatory agency that Congress charged with resolving railroad rate and service disputes and reviewing proposed railroad mergers. The STB is an independent decision-making board, although it is administratively affiliated with the Department of Transportation. The STB serves as both an adjudicatory and a regulatory body. The agency has jurisdiction over railroad rate and service issues and rail restructuring transactions (mergers, line sales, line construction, and line abandonments) plus other transportation issues. The STB accepted an invitation by the FTA to be cooperative agency for the SW LRT project. The freight railroad issues on the SW LRT project may or may not be under the jurisdiction of the STB.

HCRRA on December 10, 2012 answered a series of questions from the STB on the SW LRT DEIS. These questions and responses were posted on the project website on December 12, 2012. The City comments for submittal on December 31, 2012 on the entire SW LRT DEIS cover many of the issues raised by the STB but they are spread throughout the DEIS comments. Attached are the STB questions, the response from HCRRA, and responses from the City on the questions.

Attachments:

1. City of St. Louis Park Resolutions: 10-070; 10-071; 10-005
2. FTA PE Approval Letter SW Corridor 09-02-11
3. Letter from City to Metropolitan Council dated 9-23-11
4. Letter from Metropolitan Council dated 10-21-11
5. EAW
 - a. MNS EAW Track profiles (by Kimley Horn and AECOM)
 - b. CP and TC&W letters of 06-14-11 on EAW
 - c. SEH Technical Memos 1-3
 - d. City comments on EAW; SEH Tech Memo #4 and attachments, including:
 - Southern connection drawing
 - Skunk Hollow wye area
 - Wider r-o-w north of Highway 5
 - Comparison of Alternative 3A and 3A-1 Freight Rail Corridor Widths and Proximity to Homes
 - e. North frontage road under MN&S
6. MnDOT EAW Withdrawal Resolution
7. Letter to HCRRA dated 10-14-08
8. Wooddale and Beltline Grade Separation Summary 05-05-11
9. Railroad Easement
10. SW LRT Traffic Review by SRF
11. TKDA Final Report 11-18-09
12. TKDA Plan Set 2009
13. RL Banks Study Presentation 11-29-10
14. TCWR Route Alternatives Study by Amfahr 11-29-10
15. STB questions, HCRRA response, City response
16. Specific Comments DEIS by page

RESOLUTION NO. 10-005

RESOLUTION RELATING TO HENNEPIN COUNTY'S DECISION OF A LOCALLY PREFERRED ALTERNATIVE FOR THE SOUTHWEST TRANSITWAY

WHEREAS, the City of St. Louis Park has been an active participant and supporter of transit in the Southwest corridor, and

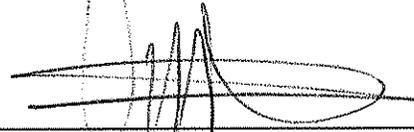
WHEREAS, the City of St. Louis Park has participated in the Technical, Policy and Community Advisory Committees for the Southwest Transitway, and

WHEREAS, the Technical Advisory Committee (TAC) unanimously recommended the selection of Route 3A as the locally preferred alternative with conditions including that agencies work cooperatively to identify impacts, mitigation requirements, and mitigation funding options to address the potential of rerouting freight rail in a parallel process with the Southwest LRT DEIS and to identify the freight rail issue and impacts as a part of the "secondary and cumulative impacts."

WHEREAS, the Policy Advisory Committee (PAC) recommended the selection of Route 3A as the locally preferred alternative with the conditions as recommended by the TAC.

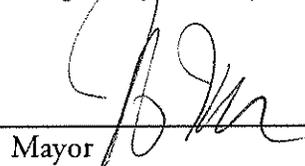
NOW THEREFORE BE IT RESOLVED by the City Council of St. Louis Park that it supports Hennepin County's decision of LRT alignment 3A as the locally preferred alternative for the Southwest Transitway.

Reviewed for Administration:



City Manager

Adopted by the City Council January 19, 2010



Mayor

Attest:



City Clerk

RESOLUTION NO. 10-070

RESOLUTION RELATING TO FREIGHT RAIL ACTIVITY IN
THE CITY OF ST. LOUIS PARK

WHEREAS, the City of St. Louis Park is committed to protect and enhance the quality of its neighborhoods; and,

WHEREAS, several railroads operate within the City of St. Louis Park and railroad operations can have adverse impacts on the City and its neighborhoods; and,

WHEREAS, the City of St. Louis Park seeks to provide a clear, concise statement of its position regarding freight rail activity in the City today and in the future; and,

WHEREAS, the City of St. Louis Park has always opposed the rerouting of freight rail traffic through our community; and

WHEREAS, the City of St. Louis Park adopted the Railroad Task Force Recommendations of May 23, 2001 by Resolution No. 01-120, which included St. Louis Park's opposition to the rerouting of freight rail; and,

WHEREAS, the City of St. Louis Park has been an active participant and supporter of transit in the Southwest corridor, and

WHEREAS, the City of St. Louis Park has participated in the Technical, Policy and Community Advisory Committees for the Southwest Transitway, and

WHEREAS, the Technical Advisory Committee (TAC) unanimously recommended the selection of Route 3A as the locally preferred alternative with conditions including that agencies work cooperatively to identify impacts, mitigation requirements, and mitigation funding options to address the potential of rerouting freight rail in a parallel process with the Southwest LRT DEIS and to identify the freight rail issue and impacts as a part of the "secondary and cumulative impacts."; and,

WHEREAS, the City of St. Louis Park adopted Resolution No. 10-05 in support of Hennepin County's decision of LRT alignment 3A (through the Kenilworth Corridor) as the locally preferred alternative for the Southwest Transitway ; and,

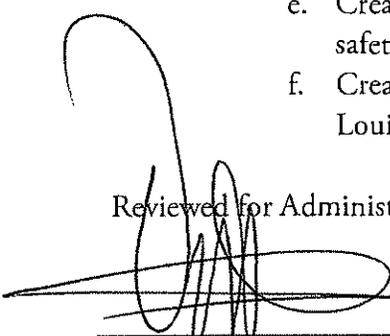
WHEREAS, the City of St. Louis Park participated in the Technical, Policy and Community Advisory Committees for the Southwest Transitway.

NOW THEREFORE BE IT RESOLVED by the City Council of St. Louis Park that the City of St. Louis Park:

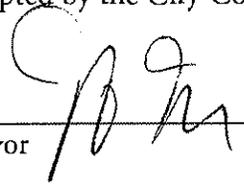
1. Supports the implementation of the Southwest Transitway LRT project; and,
2. Continues to support the May 23, 2001 Railroad Task Force Recommendations adopted by the City Council October 21, 2001; and,
3. Opposes the introduction of any rerouted freight rail traffic north and south through the City of St. Louis Park; and,
4. Opposes the rerouting of freight rail traffic from the Kenilworth corridor to St. Louis Park unless the following conditions are clearly met:
 - a. It is established through a very thorough and careful analysis that no other viable route exists;
 - b. There is appropriate mitigation of any and all negative impacts associated with rail rerouting, funded by sources other than the City of St. Louis Park. Potential negative impacts that should be addressed include but are not limited to noise, vibration, odors, traffic congestion and safety, school use and safety, park use and safety; and, circulation/access in the community by vehicle, pedestrian, transit and bicycle;
 - c. Elimination of railroad switching, sorting and blocking operations within the City of St. Louis Park; and funded by some other source than the City of St. Louis Park;
 - d. Removal of the existing "wye" rail tracks in the vicinity of Oxford Street and any other tracks not needed for through train traffic including the rail tracks east of any new interconnections between the East-West CP-TCWR tracks and the North-South CP-MNS tracks;
 - e. Creation of a freight rail single track corridor with significant right-of-way and safety measures incorporated between the track and adjacent properties;
 - f. Creation of a whistle-quiet zone funded by sources other than the City of St. Louis Park throughout the entire north-south MNS corridor.

Reviewed for Administration:

Adopted by the City Council July 6, 2010

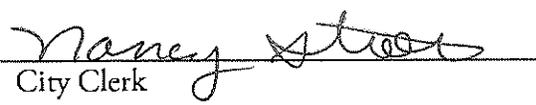


City Manager



Mayor

Attest:



City Clerk

RESOLUTION NO. 10-071

RESOLUTION REQUESTING HENNEPIN COUNTY REGIONAL RAIL AUTHORITY
(HCRRA) REANALYZE THE POTENTIAL ROUTES IN THE 2009 TCWR FREIGHT
RAIL REALIGNMENT STUDY IN GREATER DETAIL

WHEREAS, in 2009 Hennepin County Regional Rail Authority conducted a study titled, "TCWR Freight Rail Realignment Study" that evaluated options for moving freight rail from the Kenilworth corridor; and

WHEREAS, this study considered six options for TCWR operations, and

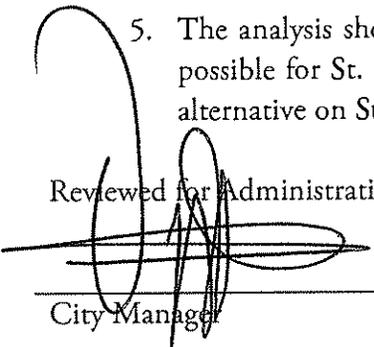
WHEREAS, the six options were not adequately or equally evaluated in the report, and

WHEREAS, additional information that evenly applies criteria to each option is necessary to ensure a viable, cost-effective route is selected.

NOW THEREFORE BE IT RESOLVED BY the City Council of the City of St. Louis Park:

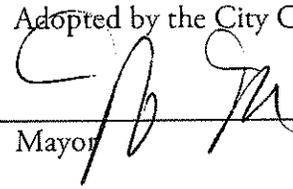
1. The City Council hereby requests Hennepin County Regional Rail Authority more fully evaluate the six options previously evaluated.
2. The additional study should evenly apply the same evaluation criteria to each route.
3. The evaluation should include, but not be limited to, such items as: an explanation of the future routes to Minneapolis and St. Paul; impacts to crossing Highway 100; a quantification of the number of at-grade road crossings and number and proximity of homes, schools and other sensitive uses along each route; impacts on public safety and transportation networks; operational impacts for TCWR and cost to compensate for possible competitive TC&W disadvantage due to route selection; an analysis of routing both freight rail and light rail through the Kenilworth corridor right-of way; and more detailed analysis of the projected costs for each route, including property acquisitions, environmental mitigation, and other factors outlined in the letter from St. Louis Park to the County in July 2009.
4. The evaluation should ensure that the analysis and criteria are applied consistently and equally for each route to provide a basis and understanding for decision making.
5. The analysis should be done in sufficient detail and reported in a format that makes it possible for St. Louis Park to fully understand the positive and negative impacts of each alternative on St. Louis Park itself.

Reviewed for Administration:



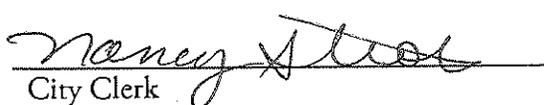
City Manager

Adopted by the City Council July 6, 2010



Mayor

Attest:



City Clerk



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
312-353-2789
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(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.

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

September 23, 2011

Ms. Susan Haigh, Chair
Metropolitan Council
390 Robert St. North
St. Paul, MN 55101-1805

Dear Ms. Haigh,

Congratulations to you and the Metropolitan Council on receiving authorization from the Federal Transit Administration (FTA) to enter into the Preliminary Engineering (PE) phase for the Southwest Light Rail Transit (SWLRT) project. As has been stated a number of times in the past, the City of St. Louis Park is a strong supporter of the SWLRT project and is truly excited to have received the news that the project will be taking this significant step toward implementation. We look forward to working in partnership with the Metropolitan Council, Hennepin County, MnDOT and our partner communities along the SWLRT Corridor on the planning, design and ultimately construction of this next component of the regional LRT system.

The FTA letter authorizing PE included a list of "key items" that must be addressed during the PE process which have significant implications for St. Louis Park. Of particular note for St. Louis Park are the items that deal with (1) analyzing the impacts of relocating the TC&W freight line within the SWLRT Environmental Impact Statement (EIS); (2) required the freight rail relocation issue to be included in the SWLRT project scope and budget; (3) referenced a Canadian Pacific "flyover" of the SWLRT line; and, (4) noted the need for Federal Railroad Administration (FRA) involvement in determining appropriate standards for safety features and separation between SWLRT and freight traffic.

While the inclusion of the freight rail issue in the SWLRT project is a significant development in the on-going Freight Rail/LRT debate, we recognize that the references to freight rail in the FTA's letter are far from a detailed plan on how to proceed. It does not necessarily resolve the issue of where TC&W trains will be routed and does not resolve specifically what mitigation for freight rail relocation is needed. The FTA requirement to include freight rail relocation and the analysis of potential impacts in the SWLRT project raises many questions about how this will be done and what happens next.

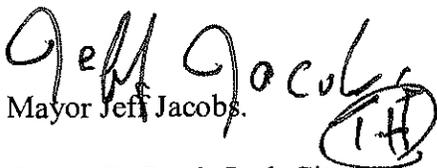
The City of St. Louis Park respectfully requests that the Metropolitan Council provide clarification at the earliest possible date as to how the key items listed in the FTA letter will be addressed during the PE process. More specifically we ask the following:

1. The third bullet in the Project Scope list in the FTA letter states that the impacts of relocating the TC&W freight line be analyzed in the SWLRT EIS. The City is requesting

- clarification about how this will be done, who will do the work and when, and how will the NEPA required EIS scoping process be handled?
2. At the core of the NEPA process is the requirement to consider and evaluate alternatives. Based on this requirement, can St. Louis Park assume that, at a minimum, one of the alternatives for the routing of the TC&W trains that will be considered and evaluated is co-location of freight and LRT trains in the Kenilworth Corridor? Please note that St. Louis Park has analyzed co-location of freight and LRT in the Kenilworth Corridor and has found it to be feasible and advantageous for a variety of reasons including safety and cost. We would be happy to share this information with you.
 3. The fourth Project Scope bullet refers to "reconfiguration of the Canadian Pacific Railroad's freight tracks..." It also references a "flyover". Clarification is sought as to where the referenced tracks are located; and, if it is referring to tracks in St. Louis Park. The City requests participation in the analysis and design process required by FTA.
 4. The second Project Scope bullet states that design requirements and standards regarding freight rail/LRT crossings and freight rail/LRT separations need to be developed in consultation with the FRA. The City would like to know when and how the Met Council will satisfy this FTA requirement and requests inclusion in this process.
 5. What will be the overall plan for allowing public participation and information sharing during the PE process?

We look forward to your response to this letter and working together in partnership toward successful implementation of the SWLRT project. We believe authorization by the FTA to begin SWLRT PE makes it all the more important that we move forward to address unresolved issues in a spirit of cooperation and a focus on problem solving. We believe inclusion of the freight rail issue in the SWLRT PE process can be embraced as a constructive step and an opportunity to move forward the overall SW LRT project. We hope that you will see this request for clarification and information in that light.

Sincerely,


Mayor Jeff Jacobs.

CC: St. Louis Park City Council
Jim Brimeyer, District 6 Representative, Metropolitan Council
Mark Fuhrman, Metropolitan Council
Hennepin County Commissioner Gail Dorfman
Phil Eckhert, Director of Housing, Community Works and Transit
Marisol R. Simon, FTA

October 21, 2011

Mayor Jeff Jacobs
City of St. Louis Park
5005 Minnetonka Blvd.
St. Louis Park, MN 55416

Dear Mayor Jacobs,

I am writing in response to your letter dated September 23, 2011 where you ask several questions on behalf of St. Louis Park related to the Federal Transit Administration's (FTA) letter authorizing the Southwest Light Rail Transit Project (SWLRT) entry into Preliminary Engineering.

On behalf of the Metropolitan Council, thank you for your community's strong commitment to partnering in the success of this project. We are all excited to have received the FTA letter allowing us to begin the necessary planning and engineering work to resolve this project's critical challenges.

The Met Council understands the city's concerns regarding the freight rail relocation issue. As we are still early in the development process of the SWLRT project, we are not able to readily answer all of your questions at this time. What we do know is the FTA is now considering the work related to resolving this issue part of the scope and budget of SWLRT. The FTA has not weighed in on what roles local agencies are to take in this process and view this determination as a local decision. Hennepin County Regional Railroad Authority has been the lead agency on the Draft Environmental Impact Statement for SWLRT and will continue in that role with ongoing support from the project office.

The Met Council and the project office recognize the importance of local stakeholders in the development and evaluation of all critical elements of the project, including Freight Rail Relocation. We understand St. Louis Park's desire to be a participant in the technical evaluations of the Freight Rail Relocation issue and will invite city staff to participate in these discussions when appropriate.

The project office is currently in the process of seeking a senior management position that will be responsible for communications and outreach for SWLRT. This person will be responsible for the development of a proactive communications plan that allows for ample public participation and for effective delivery of project information to stakeholders as well as the general public. We hope to have this individual working on the project within the next 30 – 60 days.

Again, thank you for your strong interest in SWLRT. We look forward to St. Louis Park's continued support.

Sincerely,

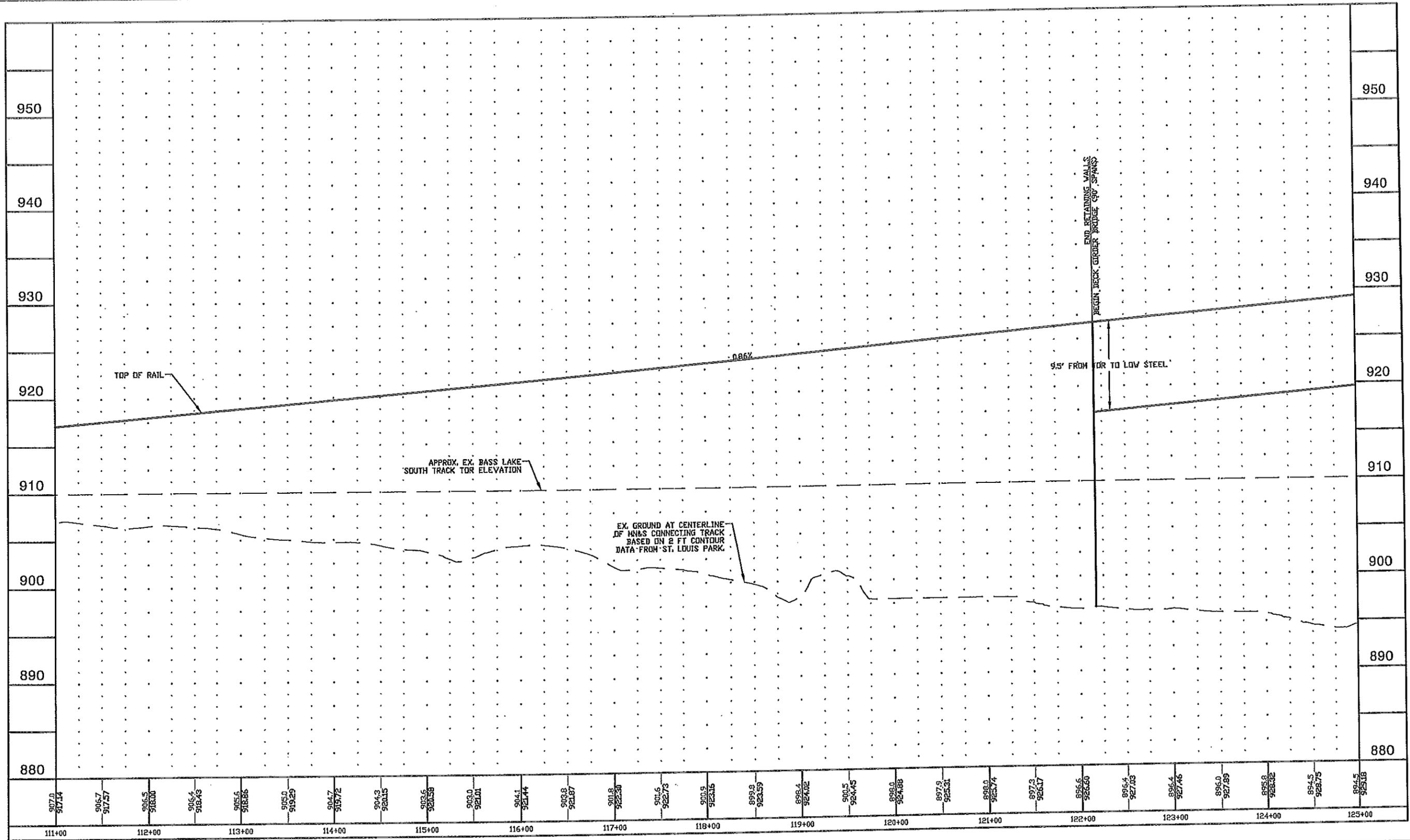

Susan Haigh
Chair, Metropolitan Council

cc: St. Louis Park City Council
Jim Brimeyer, Metropolitan Council Member
Mark Fuhrmann, CCPO

Henn. Co. Commissioner Gail Dorfman
Phil Eckhert, Hennepin County
Marisol Simon, FTA

www.metrocouncil.org

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PRELIMINARY
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NOT FOR
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Kimley-Horn
and Associates, Inc.

AECOM



HENNEPIN
COUNTY



MINNESOTA DEPT. OF
TRANSPORTATION

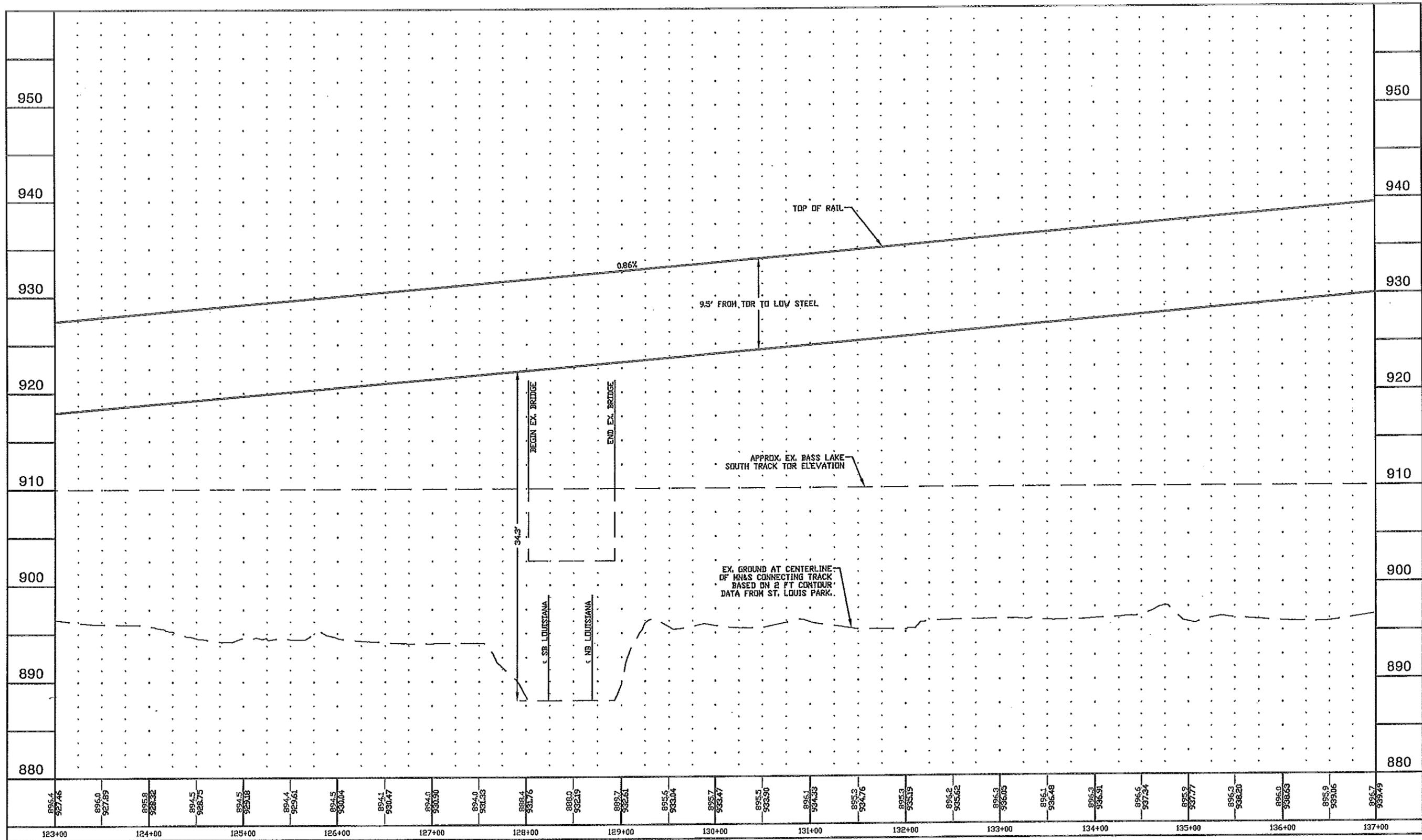
MIN&S FREIGHT RAIL STUDY

TRACK PROFILES
MN&S CONNECTING TRACK

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PRELIMINARY
DRAFT
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CONSTRUCTION



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HENNEPIN
COUNTY



MINNESOTA DEPT. OF
TRANSPORTATION

MN&S FREIGHT RAIL STUDY

TRACK PROFILES
MN&S CONNECTING TRACK

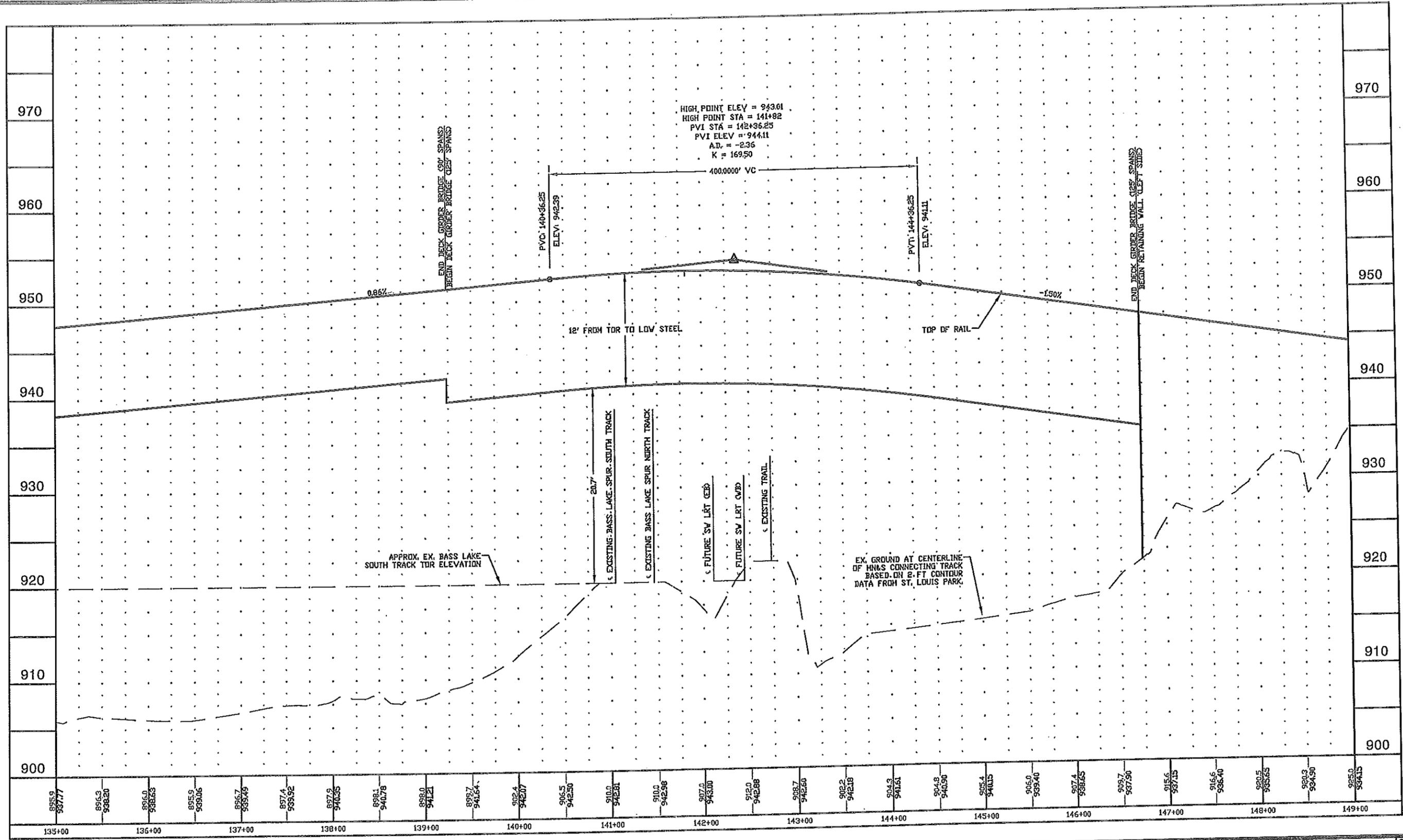
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PRELIMINARY
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NOT FOR
CONSTRUCTION



Kimley-Horn
and Associates, Inc.

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HENNEPIN
COUNTY



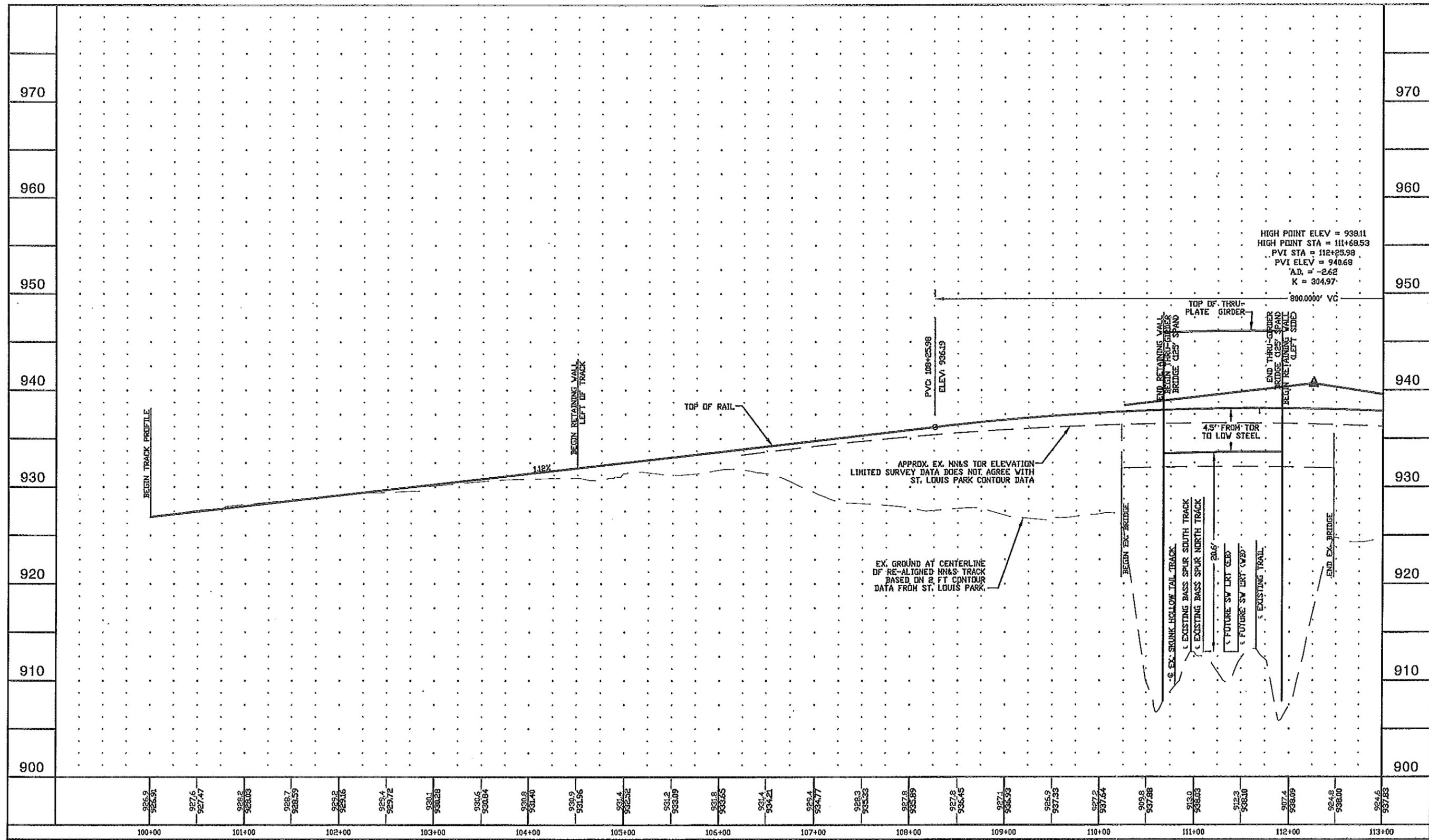
MINNESOTA DEPT. OF
TRANSPORTATION

MN&S FREIGHT RAIL STUDY

TRACK PROFILES
MN&S CONNECTING TRACK

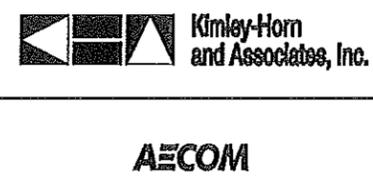
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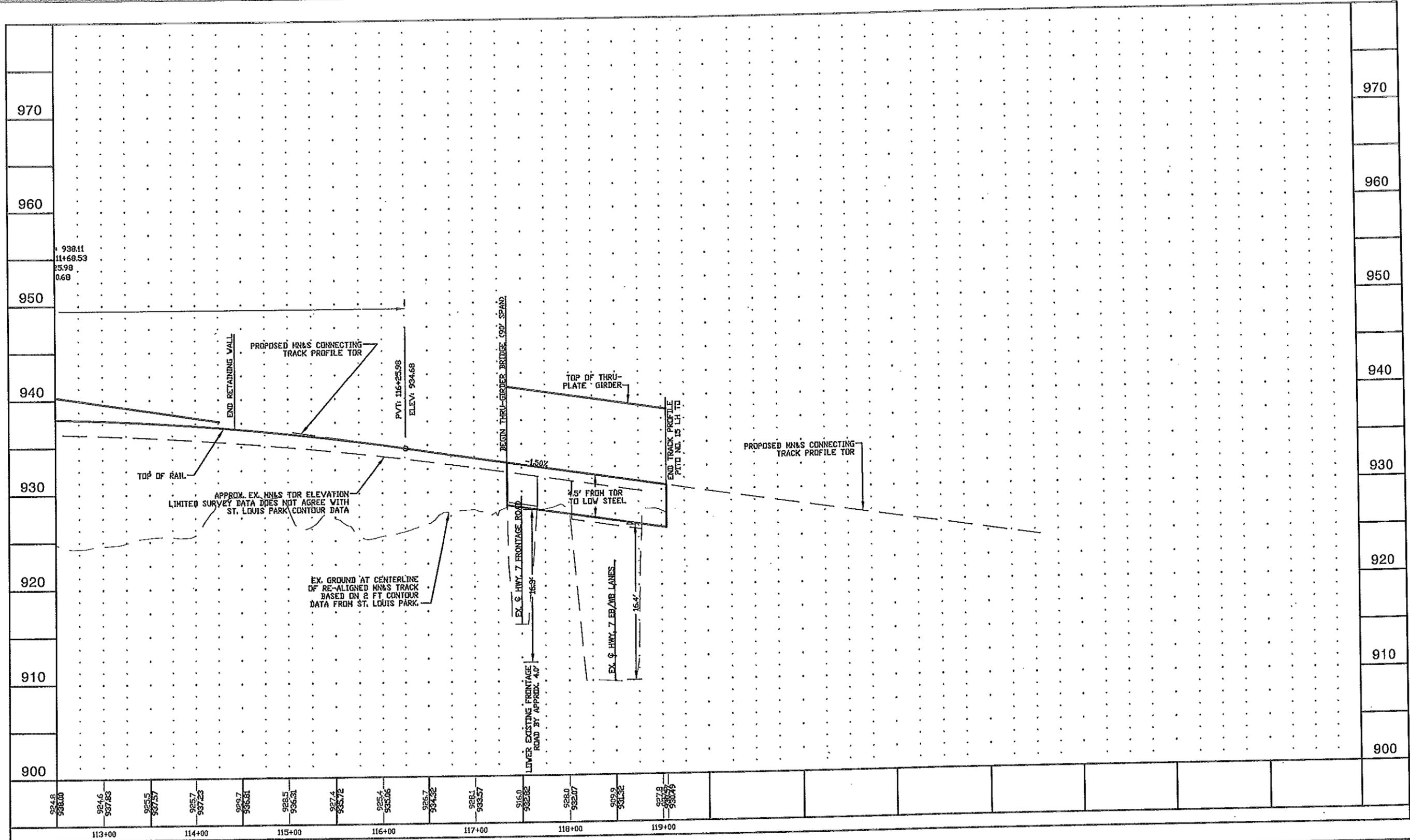


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MN&S SOUTH REALIGNMENT

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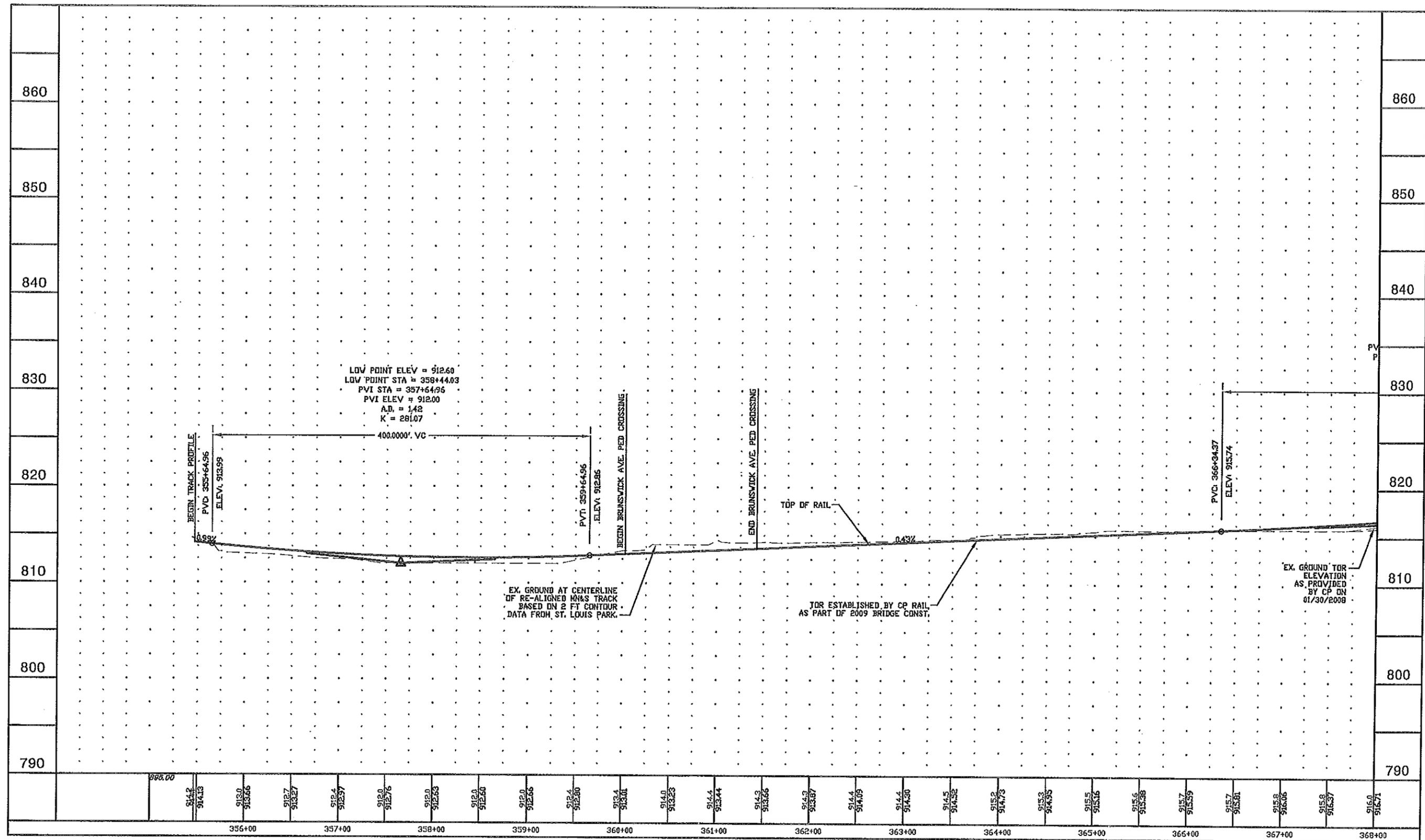
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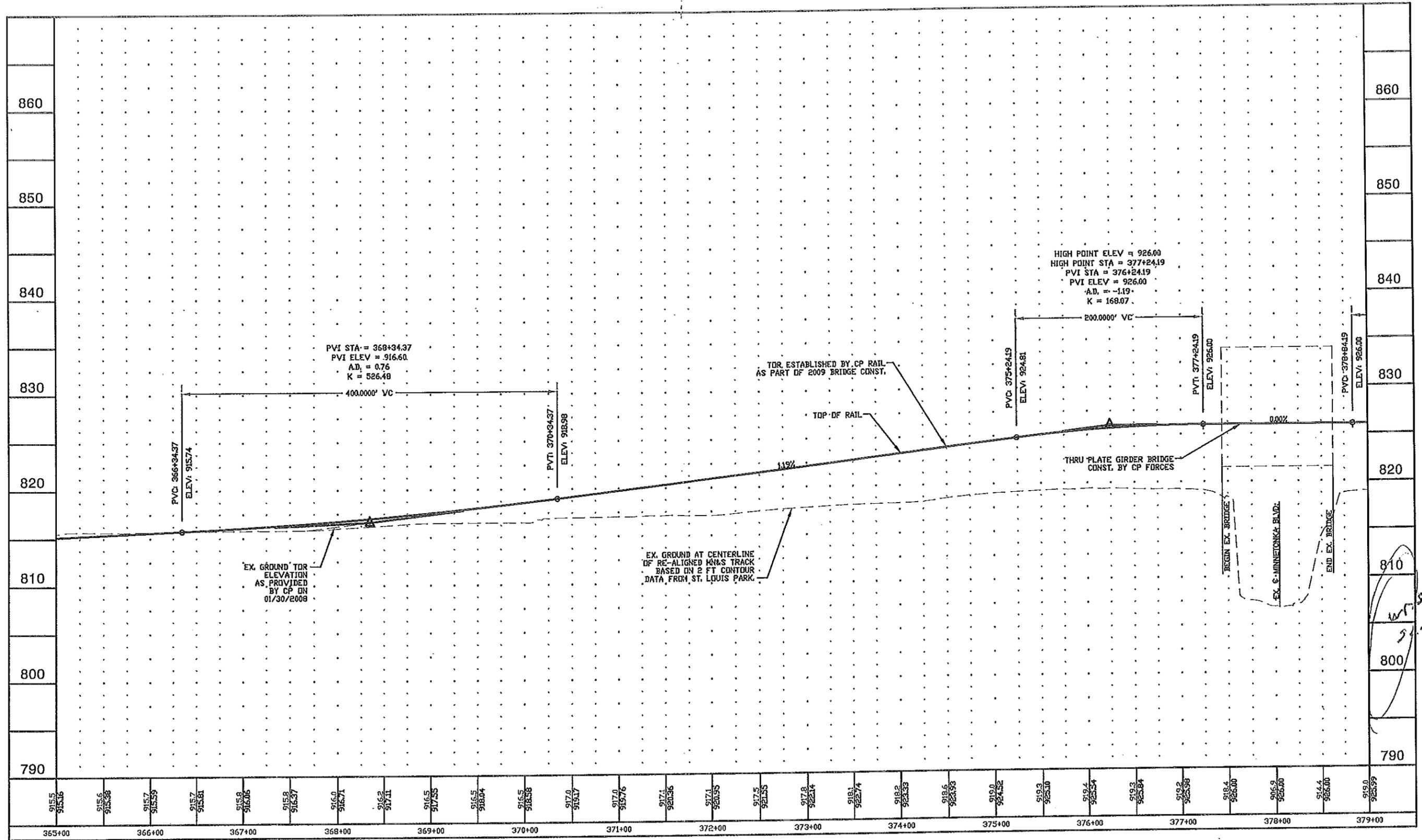
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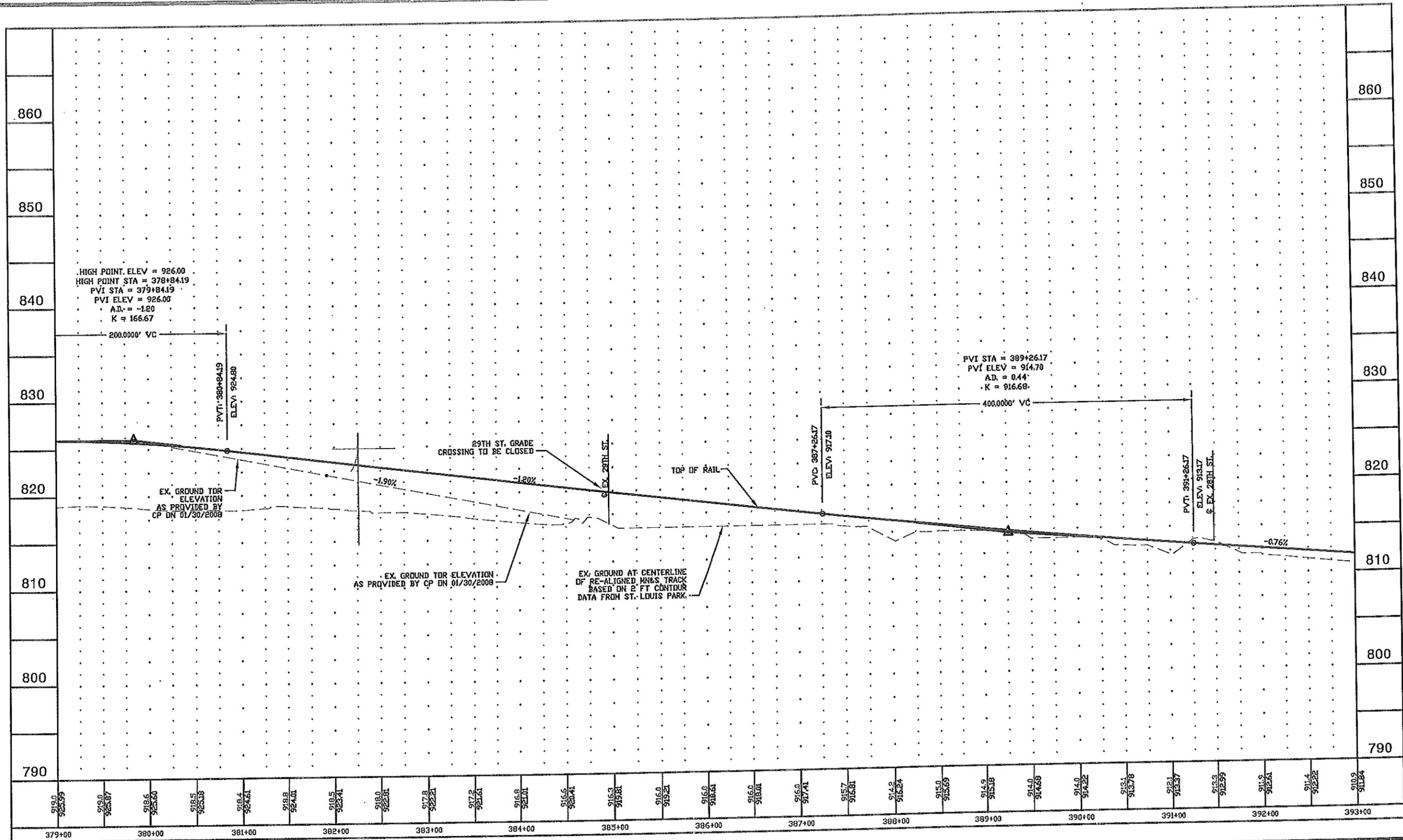
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MN&S FREIGHT RAIL STUDY

TRACK PROFILES
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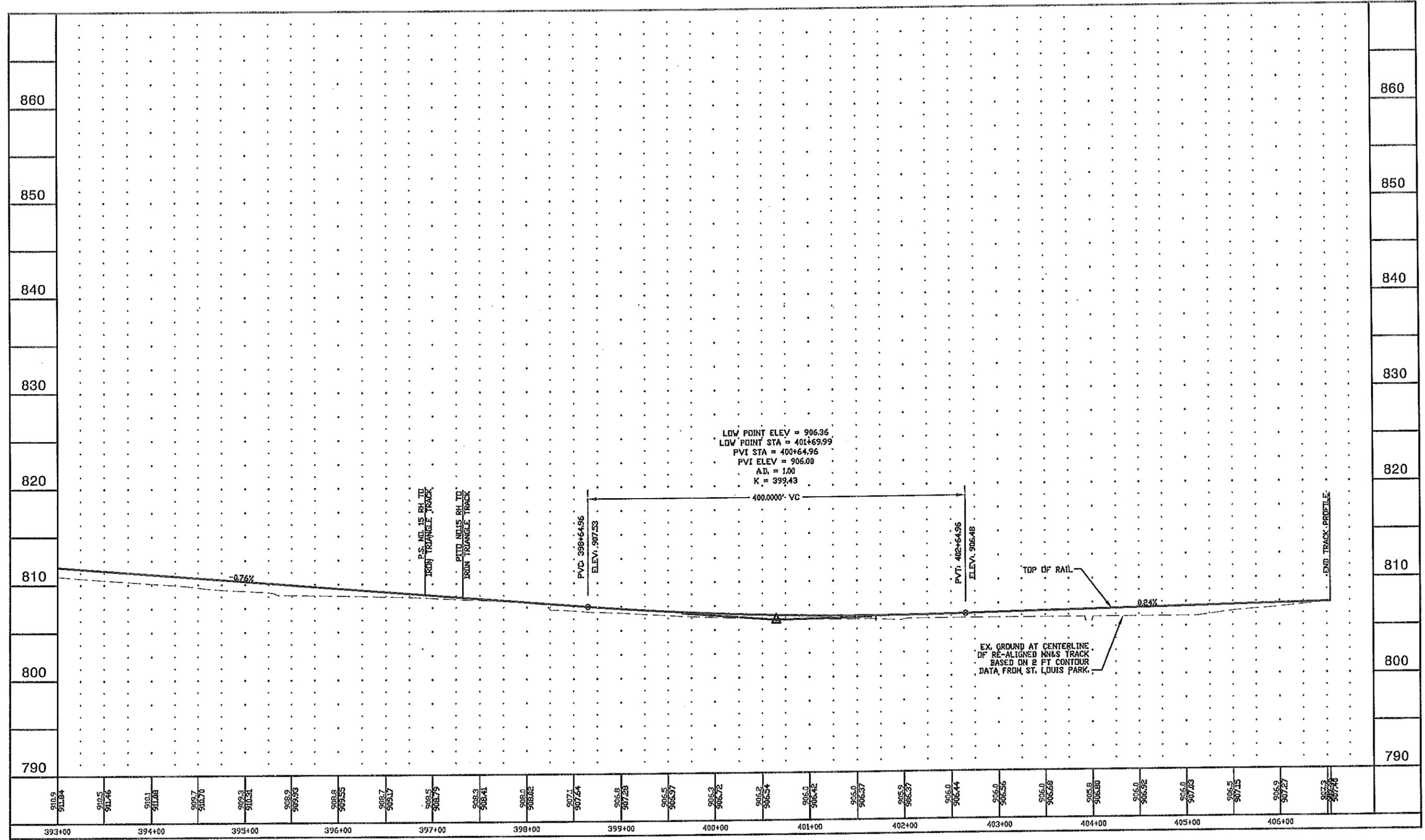
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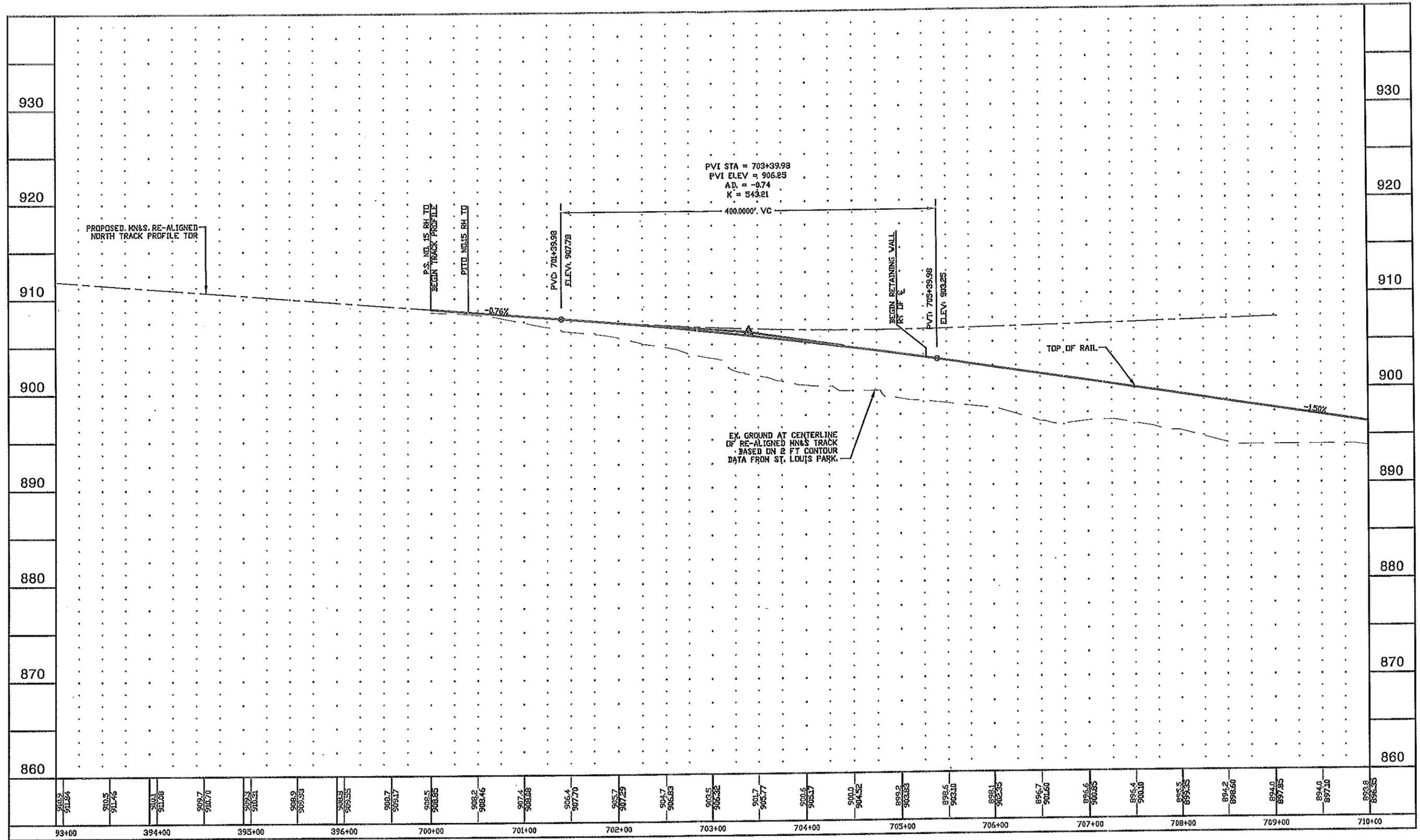
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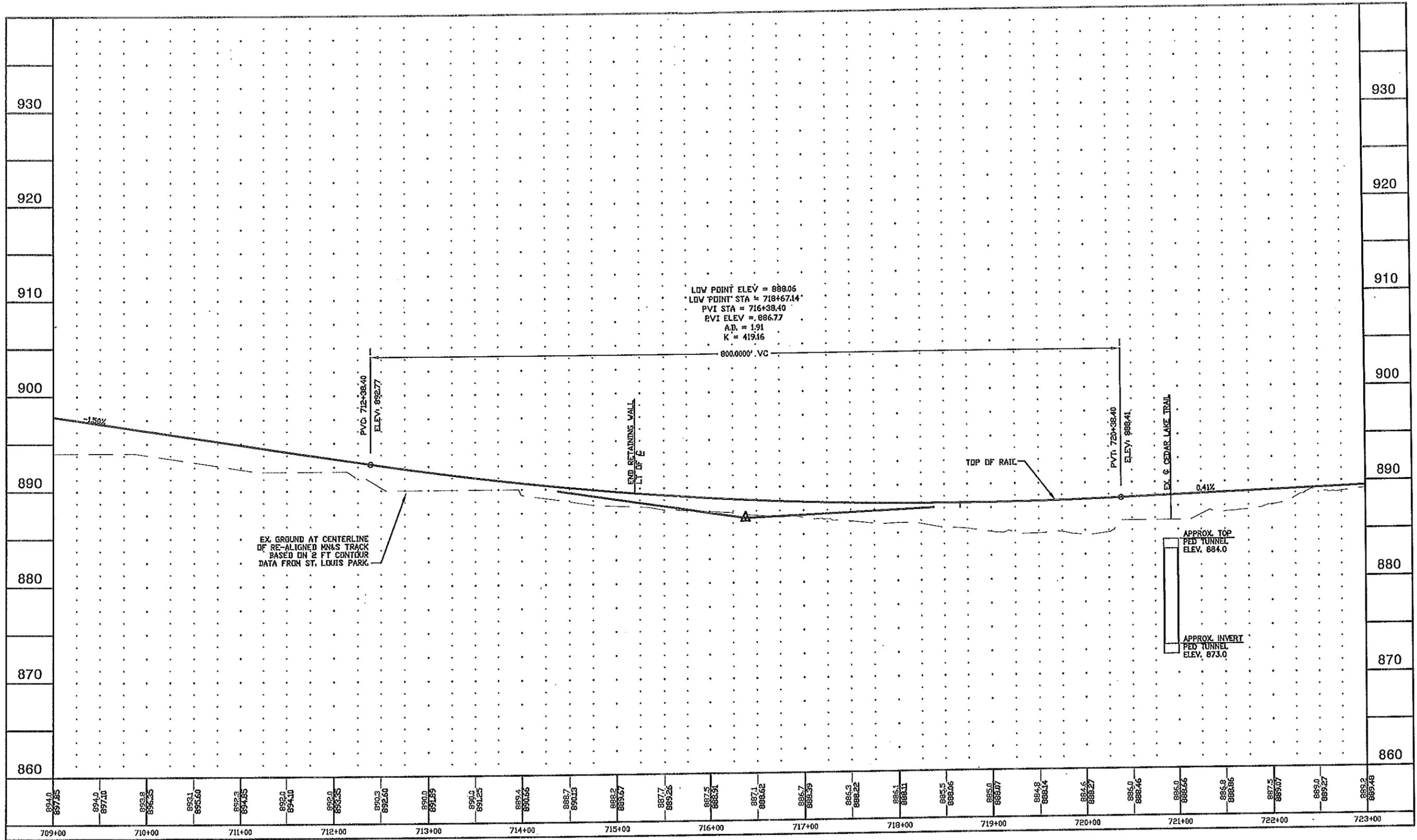
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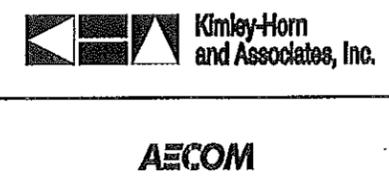
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MN&S FREIGHT RAIL STUDY

TRACK PROFILES
 IRON TRIANGLE

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**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. 1-1-1
- 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. 1-1-2
- 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. 1-1-3
- 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 1-1-4

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

↑ 1-1-4 (cont.)

- 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.

1-1-5

1-1-6

1-1-7

1-1-8

1-1-9

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

Judy Mitchell
Director Strategic Initiatives
Passenger Rail US
Canadian Pacific Railway



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) 1-2-3
- 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) 1-2-4
- 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) 1-2-5
- 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. 1-2-6
- 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) 1-2-7
- 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) 1-2-8
- The EAW does not identify and measure vibration of existing train traffic on the existing TCW route. (EAW, p. 63, Existing conditions) 1-2-9

- 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)

1-2-10

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.

1-2-11

- 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.

1-2-12

- Our existing operations would lead the 8-8:15 a.m. scenario to be more common than "relatively rare". (EAW, p. 41, last paragraph)

1-2-13

- 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."

1-2-14

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)

1-2-15

- The "Economics" section does not mention, much less resolve, the increased operating costs to TCW from increased grades and curvatures. (EAW, p. 88, Economics)

1-2-16

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)

1-2-17

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



MEMORANDUM

TO: City Council Members

FROM: Dave McKenzie, P.E.
Samuel Turrentine, Transportation Planner

DATE: December 8, 2010

RE: Technical Memorandum #1
SEH No. STLOU 114331

This memorandum provides background information on the existing regulatory framework of the railroad industry, an overview of federal railroad safety standards (e.g., track, at-grade crossing, and train operating standards), a description of current train operations in St. Louis Park, and provides preliminary comments on the Hennepin County freight rail studies.

RAILROAD REGULATION

In May 2004, the League of Minnesota Cities (LMC) published an informational memorandum titled *Railroads and Cities* which outlines many of the areas in which federal and state agencies regulate railroads and the ways in which cities may regulate railroad issues within their communities. The LMC memorandum describes local jurisdictional authority over railroads as being limited. For informational purposes, a copy of the LMC memorandum is included in Attachment A.

Table 1 identifies public agencies with oversight and/or program responsibility for railroads under the existing regulatory framework.

Table 1 – Existing Regulatory Framework for Railroads

Agency/Entity	Responsibility and Involvement
Private	
Railroad Companies	<ul style="list-style-type: none"> Each railroad has the primary responsibility to ensure its own track meets or exceeds the standards prescribed in the FRA track safety regulations and to perform regular and routine track inspections. This includes establishing a track inspection and maintenance program, training its inspectors to identify non-compliant track conditions, making any necessary repairs, and maintaining accurate records of these actions. Individual railroads establish the number of trains that travel per day and the times they are scheduled to travel.
Federal	
Federal Highway Administration (FHWA)	<ul style="list-style-type: none"> Administers federally-funded programs, several of which are available for highway-rail crossing safety improvements. Establishes standards for traffic control devices and systems at crossings and publishes them in the Manual on Uniform Traffic Control Devices (MUTCD). The agency is part of the U.S. Department of Transportation (USDOT).
Federal Railroad Administration (FRA)	<ul style="list-style-type: none"> Maintains the national Railroad Accident/Incident Reporting System that contains information reported by the railroads on all crossing collisions. Serves as custodian of the National Highway-Rail Crossing Inventory that contains the physical and operating characteristics of each crossing. Conducts field investigations of selected railroad collisions including crossing collisions. Investigates complaints by the public pertaining to crossings and makes recommendations to the industry as appropriate. Regulates rail safety in five disciplines, including tracks, signal and train control, operating practices,

Agency/Entity	Responsibility and Involvement
	<p>mechanical equipment, and hazardous materials.</p> <ul style="list-style-type: none"> • Issues regulations governing track, wayside signal and train control systems, highway-rail grade crossing automatic warning device systems, mechanical equipment (i.e. locomotives and rail cars) and railroad operating practices. • Enforces regulations regarding rail transport of hazardous materials issued by the Pipeline and Hazardous Materials Safety Administration (PHMSA). • Oversees railroad compliance of more than 2,000 regulations by conducting routine and targeted inspections, audits and special assessments of railroad operations. • Retains the right to issue compliance orders, special notices for repair, disqualification orders, injunctions and emergency orders. • Does not regulate the length of time a train may block a grade crossing. • FRA rail safety rules address standing (idling) trains that unnecessarily activate grade crossing warning devices such as flashing lights and gate arms. • Focuses on preventing rail trespassing, not enabling it by making the behavior safe. • Sponsors research into railroad and crossing safety issues. • The agency is part of the USDOT.
Surface Transportation Board (STB)	<ul style="list-style-type: none"> • Regulates interstate shipments of freight. • Resolves freight rate and rail service disputes. • Authorizes track abandonments. • Authorizes construction of new lines of rail except for sidings and spurs. • Authorizes mergers and creation of railroad companies. • Successor agency to the Interstate Commerce Commission. • The STB is an independent, bipartisan adjudicatory agency organizationally housed within the USDOT.
Federal Transit Administration (FTA)	<ul style="list-style-type: none"> • Administers federal funds for intracity transit projects. • Publishes an annual Safety Management Information System report that compiles and analyzes transit safety and security statistics reported through FTA’s National Transit Database (safety data include highway-rail grade crossing collisions). • The agency is part of the USDOT.
Environmental Protection Agency (EPA)	<ul style="list-style-type: none"> • Enforces air, water, and noise standards (the air and water standards are of general application to other industries, the noise standards are specific to railroad equipment and operations).
State	
Minnesota Department of Transportation (Mn/DOT)	<ul style="list-style-type: none"> • Responsible for developing the Minnesota Comprehensive Statewide Freight and Passenger Rail Plan (“State Rail Plan”). • Determines appropriate warning devices at-grade crossings. • The commissioner of transportation has the authority to order closure, vacation, relocation, consolidation, or separation of public at-grade crossings. • Administers the Railroad–Highway Grade Crossing Safety Improvement Program for the State of Minnesota.
Minnesota Pollution Control Agency (MPCA)	<ul style="list-style-type: none"> • Enforces clean air, ground, and water rules (the MPCA doesn’t enforce noise regulations, it measures noise levels for compliance with federal standards).
Local	
Regional Railroad Authorities (RRA)	<ul style="list-style-type: none"> • Promotes and preserves transit development and implement interim uses of rail corridors. • Owns railroad corridors. • Operates a railroad.
County/Cities	<ul style="list-style-type: none"> • Responsible for the design, construction, and maintenance of the roadway approaches to public at-grade crossings. • Negotiate with Railroads for crossing improvements. • Conduit for public funding of railroad projects.

Sources: USDOT FHWA Railroad-Highway Grade Crossing Handbook—Revised Second Edition. FRA Fact Sheets for News Media.

RAILROAD SAFETY

Railroad safety is complex and interwoven sets of rules developed by the railroad and the Federal agencies. There are three distinct areas of rule making:

- 1) Track Safety Standards,
- 2) Highway-Rail Grade Crossing Safety Standards, and
- 3) Train Operating Standards.

This memorandum will only highlight these areas and is not a complete set of rules.

Track Safety Standards

The FRA track safety standards govern the condition of the track and provide a framework to determine what is safe and how to operate on track based on its condition. The FRA's federal track safety standards generally focus on four main areas:

- **Track Structure:** Rails, cross-ties, track switches, tie plates, and rail fastening systems
- **Track Geometry:** Track gage, alignment, elevation, curvature, and track surface
- **Road Bed:** Drainage and vegetation (vegetation cannot obstruct signs and signals)
- **Track Inspection:** Frequency and quality of inspection, special inspections, and recordkeeping

For additional detail, please see the FRA Track Standards and Inspection Fact Sheet in Attachment B of this memorandum.

Highway-Rail Grade Crossing Safety Standards

Federal regulation defines a "highway-rail grade crossing" as a location where a public highway, road, street or private roadway crosses one or more railroad tracks at grade. A highway-rail grade crossing can either be public, private, or pedestrian.

A public crossing is the location where railroad tracks intersect a roadway which is part of the general system of public streets and highways and is under the jurisdiction of and maintained by a public authority and open to the general traveling public. Usually both highway approaches to a public crossing are maintained by a public authority. A private crossing is a highway-rail crossing which is on a private roadway which may connect to the general system of public streets and highways but is not maintained by a public authority. Private crossings are found on farms and in industrial/commercial complexes or they provide access to recreational and residential areas. A pedestrian crossing is a separate designated intersection where pedestrians but not vehicles, cross a track.

The *USDOT FHWA Railroad-Highway Grade Crossing Handbook - Revised Second Edition* divides highway-rail grade crossings into two components. Each component and corresponding elements is described in Table 2.

Table 2 - Components of a Highway-Rail Grade Crossing

Component	Elements	Description
Highway Component	Driver	<ul style="list-style-type: none"> Responsible for obeying traffic control devices, traffic laws, and the rules of the road.
	Vehicle	<ul style="list-style-type: none"> The design and operation of a railroad grade crossing must take into account the numbers and types of vehicles that can be expected to use it.
	Pedestrians	<ul style="list-style-type: none"> One difference between the driver and a pedestrian at a grade crossing is the relative ease with which a pedestrian can enter the trackway even if pedestrian gates are provided.
	Roadway	<ul style="list-style-type: none"> A major component of the crossing consists of the physical aspects of the highway on the approach and at the crossing itself. The following roadway characteristics are relevant to the design and control of highway-rail grade crossings: location (urban or rural); type of road (arterial, collector, or local); traffic volumes; geometric features (number of lanes, horizontal and vertical alignment, sight distance, crossing angle, etc.); crossing surface and elevation; nearby intersecting highways; and illumination.
	Traffic Control Devices	<ul style="list-style-type: none"> Traffic control systems for highway-rail grade crossings include all signs, signals, markings, and illumination devices and their supports along highways approaching and at railroad crossings at grade. The function of these devices is to permit safe and efficient operation of highway and rail traffic over crossings.
Railroad Component	Train	<ul style="list-style-type: none"> The design of traffic control systems at crossings must allow for a wide variation in train length, train speed, and train occurrence.
	Track	<ul style="list-style-type: none"> Track includes rail, ties, ballast, crossing surface, and sight distance. These provide the interface between the rail system and the road system. The railroad normally pays for this.

Sources: *USDOT FHWA Railroad-Highway Grade Crossing Handbook—Revised Second Edition.*

In the remainder of this section, the following elements are described in greater detail.

- Traffic Control Devices
- Pedestrians
- Establishing a Quiet Zone

Traffic Control Devices Element

The *Minnesota Manual on Uniform Traffic Control Devices (MUTCD)* contains standards for traffic control devices that regulate, warn and guide road users along all roadways within the State of Minnesota. Warning devices installed at highway-railroad grade crossings can be either passive or active systems. Passive warning devices include advance warning signs and any combination of crossbucks, stop, and yield signs installed at the crossing. Active warning devices include any combination of advance warning signs in conjunction with any combination of flashing light signals (with or without gates), which are activated by a train approaching the crossing.

Pedestrians Element

The *USDOT FHWA Railroad-Highway Grade Crossing Handbook - Revised Second Edition* emphasizes that it is important to understand four contributing factors that may motivate pedestrians to enter railroad right-of-way (identified below) in order to establish effective preventive measures.

- 1) As a consequence of urban development, railroads often act as physical dividers between important, interrelated elements of communities.
- 2) Railroads have always attracted juveniles as “play areas.”

- 3) At or near commuter stations, passengers frequently use short cuts before or after boarding a train.
- 4) Some people are prone to vandalism.

The *Handbook* identifies several types of preventative measures that might be employed, including:

- Fencing or Other Devices for Enclosing Rights-of-Way;
- Grade Separation;
- Additional Signing;
- Safety Education; and
- Surveillance and Enforcement.

According to the FRA, the railroad operating environment is an inherently hazardous one for which railroad employees receive extensive safety awareness training. Trespassers do not have the benefit of this knowledge nor are they aware of current and pending train movements, and by failing to properly use designated crossing locations such as highway-rail grade crossings and dedicated pedestrian access paths, are susceptible to life-threatening injuries or death.

Establishing a Quiet Zone

Findings from the City's Whistle Quiet Zone Assessment completed in 2006 indicate that three Quiet Zones are possible for the City (north CP track, south CP track, and east/west CP track). A Quiet Zone is a section of a rail line at least one half mile in length that contains one or more consecutive public highway-rail grade crossings at which locomotive horns are not routinely sounded. Under the Train Horn Rule, locomotive engineers must sound train horns for a minimum of 15 seconds, and a maximum of 20 seconds, in advance of all public grade crossings, except:

- If a train is traveling faster than 45mph, engineers will not sound the horn until it is within ¼ mile of the crossing, even if the advance warning is less than 15 seconds.
- If a train stops in close proximity to a crossing, the horn does not have to be sounded when the train begins to move again.
- There is a "good faith" exception for locations where engineers can't precisely estimate their arrival at a crossing.

For additional detail, please see The "Train Horn" Final Rule Summary in Attachment C of this memorandum.

Train Operating Standards

Train operation rules directly involve how a train is operated including speed, dispatching, car inspection, locomotive inspections, train handling and rail car switching. These rules are complex and do not directly impact the City.

RAILROAD RIGHT-OF-WAY REQUIREMENTS

Railroad right-of-way is defined as property owned or controlled by a railroad. The needed right-of-way width is determined by the number of tracks, drainage requirements, embankment width, and available land. Typical railroad right-of-way is 100 feet, but could vary between 20 and 300 feet. Table 3 identifies the existing railroad right-of-way for the rail segments of interest within the City (see corresponding exhibit in Attachment D).

Table 3 – Existing Railroad Right-of-Way for the Rail Segments of Interest

Rail Segments of Interest		Right-of-Way Description
CP Rail MN&S Sub	Between CP Rail Bass Lake Spur and BNSF Wayzata Subdivision Mainline	<ul style="list-style-type: none"> North of 27th Street width varies from 280 feet to include triangle shaped parcel formerly used for interconnect to BNSF mainline. Right-of-way is 66 feet between 27th Street and Minnetonka Blvd, south of Minnetonka Blvd. Right-of-way consists of several parcels varying in width from 34 feet to 145 feet with a typical width of approximately 100 feet.
	South of CP Rail Bass Lake Spur	<ul style="list-style-type: none"> North of 39th Street right-of-way is composed of several parcels varying in width from 80 to 153 feet. Between 39th Street and Excelsior Blvd, right-of-way width is 66 feet constant. South of Excelsior, right-of-way varies from 66 to approximately 164 feet.
CP Rail Bass Lake Spur	East of CP Rail MN&S Sub	<ul style="list-style-type: none"> The right-of-way over this segment is divided into two parallel parcels. CP owns the south half (about 70 feet), and HCRRRA owns the north half of this right-of-way (about 100 feet). The total right-of-way width varies from 75 feet to 235 feet.
	West of CP Rail MN&S Sub	<ul style="list-style-type: none"> The right-of-way over this segment is divided into two parallel parcels. CP owns the south half (about 70 feet), and HCRRRA owns the north half of this right-of-way (about 100 feet). The total right-of-way width is constant, measuring between 164 and 170 feet over this entire segment.
CP Rail Interchange Track (Interconnect or Switching Wye)		<ul style="list-style-type: none"> There are only a few right-of-way parcels owned by the CP over the length of the interconnect. Much of the segment is located within easements on private property. The right-of-way that remains varies in width from 31 to 90 feet.

Source: *St. Louis Park Railroad Report*, 1999. SEH, Inc.

Clearance

The minimum statutory vertical clearance between the railroad and highway is 22 feet. FHWA has a design standard of 23 feet and the railroads would prefer 24 or 25 feet. Mn/DOT has a standard of 16 feet 4 inches for roadways under a track. Local streets can be as low at 14 feet 6 inches.

The minimum statutory horizontal width is 8 feet 6 inches on tangent track. It increases on curved track. This clearance standard is for areas such as a bridge pier, a loading dock or passenger station platform. Mainline track or frequently used areas need a larger safety or buffer zone. This buffer zone is not well defined in rules but 25 feet is a generally considered the minimum. This allows for space in an emergency but also for maintenance and drainage issues. The FRA is also using 25 feet as a minimum flagging distance for railroad employees. Flagging distance means that if a person is within that distance, they should know or be accommodated by someone that is aware of current train operations.

EXISTING CONDITIONS

The current role of St. Louis Park’s active railroad corridors is for freight movement. In general, trains run within private railroad right-of-way. This, and Federal statutes, allow railroad companies to set their own schedules and operate 24 hours a day, seven days a week, without City regulation. As stated on CP Railway’s website, the number of trains can change at any time – traffic can either increase or decrease, the number given is merely a snapshot in time. Table 4 provides an overview of current train operations.

Table 4 – Existing Train Operations

Rail Segments of Interest	Description
CP Rail MN&S Sub	CP Railway <ul style="list-style-type: none"> Operates one local train, round trip, 5 days per week (approximately 10-30 cars).
	TC&W (Trackage Rights) <ul style="list-style-type: none"> TC&W is currently not running trains on the MN&S line. TC&W currently has the right to operate on the MN&S corridor, both north to get to the Camden river terminal in north Minneapolis as well as south to get to the Savage river terminals. TC&W also has the option of running north on the MN&S Sub to CP’s Humboldt yard to get into Minneapolis and St. Paul.
CP Rail Bass Lake Spur	CP Railway <ul style="list-style-type: none"> N/A
	TC&W (Trackage Rights) <ul style="list-style-type: none"> <u>Regular Operations (5 days/week and 6 days/week)</u> <ul style="list-style-type: none"> 1 eastbound train (< 80 cars) bound for CP’s St. Paul Yard during the AM. 1 eastbound train (~ 30 cars) bound for Minnesota Commercial’s Main Rail Yard in the Midway and Union Pacific’s Western Avenue Yard during the AM. 2 westbound trains bound for Hopkins during the PM. <u>Longer “Unit” Trains (full trainloads of one commodity)</u> <ul style="list-style-type: none"> Ethanol = approximately 1 loaded and 1 empty ethanol unit train per week (typically 80 cars in length). Coal = approximately 2 loaded coal trains per month (typically 123 cars in length).
CP Rail Interchange Track (Interconnect or Switching Wye)	CP Railway <ul style="list-style-type: none"> Serves one industrial customer.
	TC&W (Trackage Rights) <ul style="list-style-type: none"> TC&W uses this interchange point to reach the Camden river terminal in north Minneapolis (to the north) as well as the Savage river terminals (to the south). Due to current market conditions, this movement is not currently occurring but could resume if market conditions favoring movement of grain by barge develop. TC&W also has the option of running north on the MN&S Sub to CP’s Humboldt yard to get into Minneapolis and St. Paul. TC&W uses this interchange point for locomotive maintenance movements and to interchange with Progressive Rail Incorporated.

Source: *Twin Cities and Western Railroad Summary of Train Operations Memorandum* (dated August 2010). MN&S Freight Rail Study Website and Project Management Team Materials.

Existing and forecast train operations are discussed in greater detail in the *Twin Cities and Western Railroad Summary of Train Operations Memorandum* (dated August 2010) and the Frequently Asked Questions (FAQ) Section of the MN&S Freight Rail Study Website. A copy of both of these documents is included in Attachment E of this memorandum.

Table 5 provides an overview of the existing conditions at each at-grade crossing for the rail segments of interest (see Attachment F for corresponding exhibit).

Table 5 – At-Grade Crossing Summary for the Rail Segments of Interest

Rail Segments of Interest		Crossing #	Location	24-Hour Traffic Count	Crash History at Crossing (1999-2008)	Existing Control	Recent or Planned Improvements	
CP Rail MN&S Sub	North of BNSF Wayzata Subdivision Mainline	#854230K	Cedar Lake Road	12,207 (2009)	Rear-End Collision at Crossing (2006)	Overhead Flashers	None	
	Between CP Rail Bass Lake Spur and BNSF Wayzata Subdivision Mainline	#854231S	W. 28 th Street	1,303 (2009)	None	Stop Signs with Crossbucks	None	
		#854232Y	W. 29 th Street	109 (2004)	None	Stop Signs with Crossbucks	None	
		#854233F	Brunswick Avenue (North)	N/A (Pedestrians Only)	None	None	Roadway Crossing Closed 2005. Pedestrian Crossing Constructed 2006.	
		#854234M	Dakota Avenue	4,583 (2009)	Rear-End Collision at Gates (2006)	Flashers and Gates	Gates and New Concrete Surface Constructed 2005.	
		#854235U	Library Lane	No Count Available	None	Flashers	Programmed for Gate Installation in 2011/2012.	
		#854236B	Lake Street	4,017 (2009)	Collision With Train (2002)	Overhead Flashers		
		#854237H	Walker Street	2,805 (2009)	None	Flashers	None	
	South of CP Rail Bass Lake Spur	#379742T	Brunswick Avenue (South)	N/A (Pedestrians Only)	None	None	Roadway Crossing Closed 2003. Pedestrian Crossing Constructed 2004.	
		#854241X	Alabama Avenue	3,025 (2009)	None	Flashers	Programmed for Gate Installation in 2011/2012.	
		#854242E	Excelsior Boulevard	25,500 (2007)	None	Overhead Flashers and Gates	None	
		#854243L	W. 41 st Street	976 (unknown)	None	Stop Signs with Crossbucks	None	
		#854244T	W. 42 nd Street	258 (unknown)	None	Stop Signs with Crossbucks	None	
		#854245A	Brookside Avenue North	1,160 (unknown)	Collision With Train (2007)	Flashing Lights	None	
		#854246G	Brookside Avenue South	Unknown	None	Flashing Lights	None	
	CP Rail Bass Lake Spur	East of CP Rail MN&S Sub	#397741L & #185195B	Wooddale Avenue	6,700 (2007)	None	Overhead Flashers and Gates	None
			#187142J	Ottawa Avenue	8,700 (unknown)	None	Overhead Flashers and Gates	None
West of CP Rail MN&S Sub		None	N/A	N/A	N/A	N/A	N/A	
CP Rail Interchange Track (Interconnect or Switching Wye)		#379744G	Oxford Street	3,300 (unknown)	None	Crossbucks	None	
		#379745N	Louisiana Avenue	10,500 (2007)	None	Overhead Flashers	None	

Source: Kimley Horn and Associates. FRA Office of Safety Analysis - Generate Crossing Inventory and Accident Reports.

ENVIRONMENTAL REVIEW REQUIREMENTS

Since railroads are privately owned, it is obvious that the sources of funds to operate, maintain, and improve a freight railroad are drawn from private capital. Public freight rail investment, as currently being proposed, can trigger federal and/or state environmental review requirements. It is also helpful to understand the interaction between the environmental review document(s) and the negotiated railroad agreement between HCRRA and the private freight rail companies.

Federal Environmental Review Requirements

The National Environmental Policy Act (NEPA) of 1969 requires that social, economic, and environmental (SEE) considerations be included in the planning of projects that receive federal funding. The NEPA process is actually an "umbrella" term for compliance with over 40 environmental laws, regulations, and executive orders. The extent of environmental studies and depth of analysis is dependent on the complexity of the project and its anticipated effects. The documentation may range from short environmental determination statements to extensive and complex studies with preparation of an Environmental Impact Statement (EIS). Listed below are the three classes of actions which prescribe the level of documentation required in the NEPA process.

- **Class I Actions:** are those that significantly affect the environment and require an Environmental Impact Statement (EIS).
- **Class II Actions:** do not individually or cumulatively have significant environmental effects and are considered Categorical Exclusions (CE). Generally, no formal public involvement is required.
- **Class III Actions:** are those not clearly Class I or Class II, where the significance of the environmental impacts is uncertain; they require the preparation of an Environmental Assessment (EA) to assist in determining the need for an EIS. Should environmental analysis and interagency review during the EA process find a project to have no significant impacts on the quality of the environment, a Finding of No Significant Impact (FONSI) is issued.

Federal regulations have general thresholds established for identifying the process and documentation required. Since federal funds have not been identified for the possible rerouting of freight, the current project associated with the MN&S Freight Rail Study is not following a federally-funded project development path. Instead, the MN&S Freight Rail Study includes preparation of a state Environmental Assessment Worksheet (EAW) for the proposed route to meet state environmental review requirements. It should be noted that any government unit with approval authority can order a discretionary EAW if it determines that the project may have the potential for significant environmental effects. The state's environmental review program is based on the Minnesota Environmental Policy Act (MEPA) of 1973 which established a formal process for investigating the environmental impacts of major development projects. The consultant team for the MN&S Freight Rail Study is currently proposing to include a technical appendix with the state EAW that will outline the additional issues requiring evaluation to obtain federal environmental approval. The preparation of a federal environmental review document is likely to be necessary if federal funding becomes available for the project.

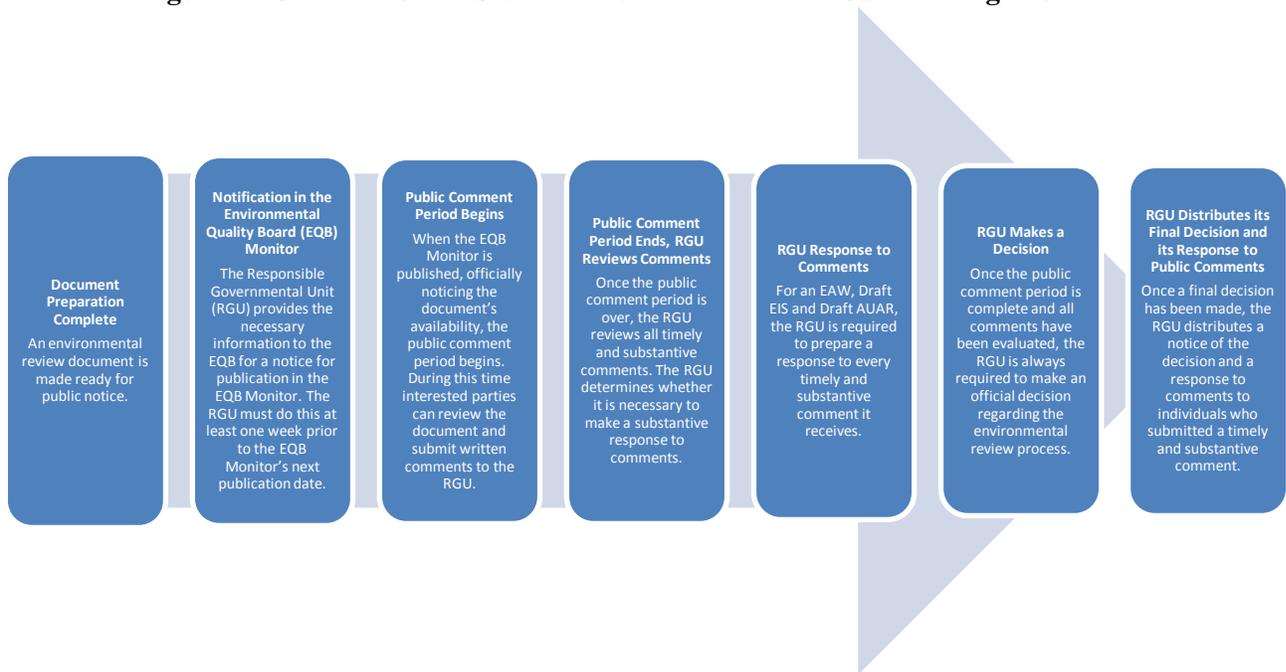
State Environmental Review Requirements

The state EAW document is designed to provide a brief analysis and overview of the potential environmental impacts *for a specific project* (emphasis added) and to help the Responsible Governmental Unit or RGU (identified as Mn/DOT for the MN&S Freight Rail Study) determine whether a state Environmental Impact Statement (EIS) is necessary. The RGU is the governmental unit determined to have the greatest authority to approve or disapprove a project. The EAW consists of a standard list of 31 questions and is meant to set out the basic facts of the project's environmental impacts to screen projects

that may have the potential for significant environmental effects. The EAW is not meant to approve or disapprove a project, but is simply a source of information to guide other approvals and permitting decisions. The EAW is subject to a 30-day public review period before the RGU makes a decision about whether the project also needs a state EIS.

Overall, the state EAW process consists of four basic steps: 1.) the project proposer supplies complete data to the RGU; 2.) the RGU prepares an EAW; 3.) the public comments during a 30-day period; and 4.) the RGU makes a decision about the need for an EIS, based on the EAW, comments received and comment responses. The following flow chart (Figure 1) describes the typical steps of the state environmental review commenting process.

Figure 1 - Overview of the State Environmental Review Commenting Process



Source: *A Citizen's Guide: Commenting on Environmental Review Projects*. Environmental Quality Board.

SOUTHWEST LIGHT RAIL TRANSIT (LRT) PROJECT

HCRRA recommended LRT 3A or the Kenilworth-Opus-Golden Triangle alignment as the locally preferred alternative (LPA) in November 2009. The Metropolitan Council formally amended the region's long-range Transportation Policy Plan (TPP) at its meeting on May 12, 2010, completing the locally preferred alternative (LPA) selection process for the Southwest Transitway. Plans to implement LRT in the Kenilworth Corridor have assumed the removal of the freight rail tracks and the relocation of freight rail service. Throughout the LRT process, it has been disclosed that freight rail operations would be relocated under a separate action. The Southwest LRT Draft Environmental Impact Statement (DEIS) is currently under review by the FTA.

Railroad Agreement between HCRRA and the Private Freight Rail Companies

To facilitate the connection of TC&W to the east, HCRRA rehabbed the Kenilworth Corridor as a temporary route and facilitated an agreement between BNSF, CP, and TC&W to provide trackage rights into and through St. Paul. HCRRA is responsible for providing an acceptable alternative alignment to

TC&W if they are required to relocate or seek to relocate from the current alignment for any reason. According to the agreement, any re-route must be a *safe, economical, and efficient* route for TC&W.

ALTERNATIVES

Freight rail studies that have been prepared to date include:

- *St. Louis Park Railroad Report*, 1999.
- *Analysis of Coexistence of Freight Rail, Light Rail Transit (LRT) and Trail*, August 2009.
- *TCWR Freight Rail Realignment Study*, November 2009.
- *The Mn/DOT Statewide Freight Rail Plan*, 2010.
- *Twin Cities and Western Railroad Summary of Train Operations*, August 2010.
- *Freight Rail Study Evaluation of TCWR Routing Alternatives*, Prepared for HCRRA, Prepared by Amfahr Consulting, November 2010.
- *Kenilworth Corridor: Analysis of Freight Rail / LRT Coexistence*, Prepared for HCRRA, Prepared by R. L. Banks & Associates, Inc., November 2010.
- *MN&S Freight Rail Study* (Currently Underway).

The universe of alternative freight routes, based on the above studies, is identified in Table 6.

Table 6 – Identified Universe of Alternative Freight Routes

Primary Studies	Alternative Freight Routes
<i>Freight Rail Study Evaluation of TCWR Routing Alternatives</i> , Prepared for HCRRA, Prepared by Amfahr Consulting, November 2010.	Western Connection
	Chaska Cut-Off
	Midtown Corridor
	Highway 169 Connector
<i>Kenilworth Corridor: Analysis of Freight Rail / LRT Coexistence</i> , Prepared for HCRRA, Prepared by R. L. Banks & Associates, Inc., November 2010.	Kenilworth Corridor
	- Scenario 1: All Three Grade Alignments At-Grade
	- Scenario 2: Trail Relocated
	- Scenario 3: Bicycle Trail on Structure
	- Scenario 4: LRT on Structure
	- Scenario 5: LRT in Tunnel
	- Scenario 6: Freight and LRT Share Use of Track
- Scenario 7: LRT Single Track	
<i>MN&S Freight Rail Study</i> (Currently Underway)	MN&S Sub Alignment

Preliminary comments on the “Amfahr” and “R.L. Banks” freight rail studies are provided in Tables 7 through 9.

Table 7 - Preliminary Comments on “Amfahr” Study

Route Alternatives		Western MN Connection	Chaska Cut-Off	Midtown Corridor	Hwy 169 Connector
Description		Reroute All TC&W Traffic West Through Granite Falls On The BNSF	Reroutes Traffic Thru Chaska On The Union Pacific Railroad	Reestablish Freight Traffic In The 29 th Street Corridor	Reestablish Freight Traffic On BNSF Abandon Track From Hopkins To St. Louis Park
Cost (millions)	Construction R/W		\$100.4	\$192.8	\$73.6
	Total Cost	?	\$9.8 \$129.8	\$2.8 \$195.6	\$38.0 \$121.6
Positive		<ul style="list-style-type: none"> • Current RR Alignments 	<ul style="list-style-type: none"> • Bypass of St. Louis Park • New Customers In Chaska 	<ul style="list-style-type: none"> • Acceptable RR Profile 	<ul style="list-style-type: none"> • Bypass of St. Louis Park
Negative		<ul style="list-style-type: none"> • Complete Change In TC&W Traffic Pattern • Acquiring Trackage Rights From BNSF 	<ul style="list-style-type: none"> • New Minnesota River Crossing • Profile Grade Issues • Acquisition of 25 Housing Units • Acquiring Trackage Rights From UP RR 	<ul style="list-style-type: none"> • Conflicts With Midtown Transit Options • Track Conditions East of River 	<ul style="list-style-type: none"> • Acquisition of 131 Housing Units • Acquiring Trackage Rights From BNSF
Additional Information Needed?		<ul style="list-style-type: none"> • Does a Rate Subsidy Make Sense? • Additional Cost Information 	<ul style="list-style-type: none"> • Additional Cost Information 	<ul style="list-style-type: none"> • Additional Cost Information 	<ul style="list-style-type: none"> • Additional Cost Information
Comments		<ul style="list-style-type: none"> • Additional Information On Traffic Patterns And Costs 	<ul style="list-style-type: none"> • Not Viable 	<ul style="list-style-type: none"> • Not Viable 	<ul style="list-style-type: none"> • Not Viable

Table 8 – Preliminary Comments on “R.L. Banks” Study (Scenarios 1 – 4)

Route Alternatives		Scenario #1	Scenario #2	Scenario #3	Scenario #4
Description		Freight Rail, SW LRT And Trail All In Same Corridor	Freight Rail And SWLRT Same Corridor; Trail Relocated	Trail Above SW LRT And Freight Rail	SW LRT Above Freight Rail And Trail
Cost (millions)	Construction R/W Total Cost	\$30-38 \$21 \$51-59	\$43-55 \$65 \$109-120	\$71-88	\$112-139
Positive		<ul style="list-style-type: none"> • Minimum Disruption To TC&W RR 	<ul style="list-style-type: none"> • Minimum Disruption To TC&W RR 	<ul style="list-style-type: none"> • Minimum Disruption To TC&W RR • No Additional R/W Is Needed 	<ul style="list-style-type: none"> • Minimum Disruption To TC&W RR • No Additional R/W Is Needed
Negative		<ul style="list-style-type: none"> • Acquisition of 33 to 57 Housing Units¹ • Complicates Station Areas • Parkland Impacts • No Grade Separation At Cedar Lake Parkway² • Additional LRT Bridge 	<ul style="list-style-type: none"> • Acquisition of 117 Housing Units¹ • Major Disruption To Trail System • Complicates Station Areas • Parkland Impacts • No Grade Separation At Cedar Lake Parkway • Additional LRT Bridge 	<ul style="list-style-type: none"> • No Grade Separation At Cedar Lake Parkway • Complicates Station Areas • Isolated Trail • Visual Impact 	<ul style="list-style-type: none"> • No Grade Separation At Cedar Lake Parkway • Complicates Station Areas • Expensive • Visual Impact Over Lake Street
Additional Information Needed?		<ul style="list-style-type: none"> • Detailed Cost Estimates 	<ul style="list-style-type: none"> • Detailed Cost Estimates 	<ul style="list-style-type: none"> • Detailed Cost Estimates 	<ul style="list-style-type: none"> • Detailed Cost Estimates
Comments		<ul style="list-style-type: none"> • Assumes LRT Was Fixed Alignment • Freight Track On West Side • Additional Study Needed If LRT Alignment Can Be Adjusted 	<ul style="list-style-type: none"> • Assumes LRT Was Fixed Alignment • Freight Track On East Side • Additional Study Needed If LRT Alignment Can Be Adjusted 	<ul style="list-style-type: none"> • Freight Track On West Side • Not Viable 	<ul style="list-style-type: none"> • Freight Track On West Side • Not Viable

¹ Source: *Kenilworth Corridor: Analysis of Freight Rail / LRT Coexistence*, R. L. Banks & Associates, Inc., November 2010.

² Notes: Southwest LRT current plans show grade separation at Cedar Lake Parkway.

Table 9 – Preliminary Comments on “R.L. Banks” Study (Scenarios 5 – 7)

Route Alternatives		Scenario #5	Scenario #6	Scenario #7
Description		SW LRT In Tunnel; Freight Rail And Trail On Grade	Freight Rail And SW LRT Share Track And Trail	SW LRT On One Track; Freight Rail On One Track And Trail
Cost (millions)	Construction R/W Total Cost	\$203-230	\$35-43	\$31-38
Positive		<ul style="list-style-type: none"> • Minimum Disruption To TC&W RR 	<ul style="list-style-type: none"> • No Property Acquisition • No Additional R/W Is Needed 	<ul style="list-style-type: none"> • Minimum Disruption To TC&W RR • No Additional R/W Is Needed
Negative		<ul style="list-style-type: none"> • No Grade Separation At Cedar Lake Parkway • Complicates Station Areas • Ground Water Issues • Very Expensive 	<ul style="list-style-type: none"> • No Grade Separation At Cedar Lake Parkway • Complicates Station Areas • Additional LRT Bridge • Major Disruption To TC&W Schedule 	<ul style="list-style-type: none"> • No Grade Separation At Cedar Lake Parkway • Complicates Station Areas • Additional LRT Bridge • Major Impact to LRT Capacity/Operations
Additional Information Needed?		<ul style="list-style-type: none"> • Detailed Cost Estimates 	<ul style="list-style-type: none"> • Detailed Cost Estimates 	<ul style="list-style-type: none"> • Detailed Cost Estimates
Comments		<ul style="list-style-type: none"> • Freight Track On West Side • Not Viable 	<ul style="list-style-type: none"> • Freight Track On West Side • Freight Trains Allow For 3 Hours/Day In Early Morning • Not Viable 	<ul style="list-style-type: none"> • Freight Track On West Side • Not Viable

NEXT STEPS

Although the three HCRRA studies have different levels of detail and analysis, it is possible to narrow down the viability of some options. Our review of the 12 options suggests that only four are reasonable options for further study.

The four options are:

1. Co-locating the freight rail, LRT and trail in the Kenilworth Corridor
2. Locating freight and LRT in the Kenilworth Corridor and relocating the commuter regional trail to another corridor
3. Freight rate subsidies for TC&W to operate to the west of the Twin Cities
4. Relocate the freight traffic to the MN&S corridor.

In the Kenilworth Corridor the unanswered question is developing the best alignment for a combined freight track and LRT track in the same corridor. The current alignment was designed to provide the best alignment for the LRT. After this is established the issues of right of way, trail location, parkland impacts can be evaluated.

The freight rate subsidy options needs to be quantified. How much would it really cost?

The study of the reroute onto the MN&S corridor is ongoing and the impacts are not defined at this time. The additional information that will need to be evaluated includes:

- What width is needed for freight rail, LRT and the regional trail?
- What right of way is available in the Kenilworth Corridor?

- What are the parkland (4f) issues and can they be mitigated?
- How does the presence of freight rail affect the design and operation of the LRT stations?
- Understanding of the costs of freight rail and LRT and how it will be split?
- What is the cost of a freight rail subsidy and how to pay for it?
- How does the freight rail location affect the development and redevelopment within the City?
- How do these alternatives affect other stakeholders outside of the City?
- What is the long-term implication of each of these alternatives?

The goal is the successful implementation of the Southwest LRT with as little freight impact to St. Louis Park.

Attachments

- **Attachment A:** *Railroads and Cities*, League of Minnesota Cities (LMC) Informational Memorandum (May 2004)
- **Attachment B:** FRA Track Standards and Inspection Fact Sheet
- **Attachment C:** The “Train Horn” Final Rule Summary
- **Attachment D:** Existing Railroad Right-of-Way Ownership Map
- **Attachment E:** Twin Cities and Western Railroad Summary of Train Operations Memo (August 2010) & MN&S Freight Rail Study Website - Frequently Asked Questions Section (Existing and Forecast Train Operations)
- **Attachment F:** Existing At-Grade Railroad Crossings Map

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Attachment A

Railroad and Cities, League of Minnesota Cities Informational Memorandum (May 2004)



GOVERNING & MANAGING INFORMATION

Railroads and Cities

465.1

May 2004

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Railroad Highlights



1. Who regulates railroads?

A number of state and federal agencies regulate railroads. Cities also have some limited ability to regulate railroads. The following federal agencies regulate trains:

- Federal Railroad Agency (FRA)
- Surface Transportation Board (STB)
- Federal Highway Administration (FHWA)
- National Transportation Safety Board (NTSB)
- Environmental Protection Agency (EPA)

Railroads are also regulated at the state level. The following state agencies regulate railroads:

- Minnesota Department of Transportation, Office of Freight, Railroads and Waterways (OFRW)
- Minnesota Pollution Control Agency (MPCA)

Local jurisdictions, such as cities, counties, and towns, also have some ability to regulate certain aspects of railroads. But this authority is rather limited because of the degree to which the federal and state agencies have control.

2. Can cities ban train horns?



A city cannot ban the use of locomotive horns, unless the city follows procedures in the federal train horn rule. This interim federal rule regulating the use of locomotive horns was published on Dec. 18, 2003. It will take effect on Dec. 18, 2004. The rule requires that locomotive horns be sounded at virtually all public highway-rail crossings in the United States. Any community in the country can keep an existing quiet zone or establish new quiet zones if all the complex procedures described in the rule are followed correctly. FRA approval may be required for either pre-rule quiet zones or new quiet zones.

The federal rule pre-empts state and local regulations regarding the use of train horns.

3. Can cities regulate noise from trains?



Most noise regulation for railroads occurs at the federal level. Cities probably have little authority to regulate in this area.

4. Can cities zone railroad property?

Cities may enforce zoning regulations on some railroad property. Generally, a city may impose its zoning regulations on land that is not being used for railroad purposes. However, cities are more limited in their ability to regulate land that is being used for railroad purposes.

5. Can cities regulate train speed?



Cities appear to have little ability to regulate train speeds. Maximum speeds that are allowed on tracks are set by the FRA. State statute allows the Minnesota Department of Transportation (Mn/DOT) to set safe speeds at crossings, but some believe this authority is pre-empted by the federal regulations.

6. Whose responsibility is it to maintain and pay for grade crossings?

Railroads are responsible for maintaining and repairing railroad grade crossings and their surfaces. The costs to improve, repair or maintain a grade crossing may be shared jointly with the owner or lessee of the track, the road authority having jurisdiction over the public highway involved and funds available from Mn/DOT. Cities are responsible for costs to improve, repair or maintain sidewalks adjacent to highway-rail crossings.

7. Can cities tax railroad property?



Property owned by railroads is taxable, but the procedure for taxing such property varies depending on how the land is used. If the land is not used for railroad purposes, the valuation and taxing procedure is the same one that the city would use for other property within the city.

If the land is used for railroad purposes, the process is different. The Department of Revenue determines the market value of the land using a complex formula. The values are apportioned to local taxing jurisdictions and certified to each respective county after an equalization formula has been applied. The taxing jurisdictions then proceed in the same manner as they would for other property in the city.

8. Can special assessments be put on railroad property?



Cities may levy special assessments against railroad property for the cost of improvements that benefit that property. Notice must be given to the railroad in the same manner as other property owners, and the assessment amount cannot exceed the value that the improvement has to the property.

9. Can the cost of abating a nuisance be levied against railroad property and collected with its property taxes?

Sometimes railroad property can fall into disrepair or become a dumping ground for appliances or trash. These conditions can become a threat to public health. Cities can address such situations in their nuisance ordinances and require that the property be cleaned up. The city may also provide that it will abate the nuisance if it is not cleaned up and bill the railroad for the cost of the cleanup. The city's ordinance may provide for making unpaid service charges to abate nuisances a special assessment against the property.

10. Who can put traffic signs at railroad crossings?

All traffic signs and signals must be approved by Mn/DOT before they can be installed at railroad crossings. Signs and signals must meet certain criteria for signs and signals found in the *Manual on Uniform Traffic Control Devices*.

11. Who is liable for accidents at railroad crossings?



Responsibility for accidents at railroad crossings is a fact determination that must be made for each individual accident after considering the specific circumstances of the incident. The federal train horn rule is intended to remove liability from the railroads for failure to sound the horn at highway-rail crossings within a quiet zone. However, since damages and losses from such accidents are usually substantial, everyone who might have contributed to the circumstances will probably be included in a lawsuit. This could include the railroad, the owners of any property that is damaged, anyone who was injured or killed (or one of their relatives), the manufacturer of whatever was being transported by the railroad, and quite possibly the city, among others.

12. What can city officials do to help residents who have complaints about railroads?

If the complaint deals with an area that is controlled by federal or state law, city officials should communicate this fact to the resident. The complaining person should be provided with the name and phone number of both the railroad and the appropriate regulatory agency so he or she can contact them with their complaint. In addition, the city should contact the railroad directly to make it aware of the complaint. Even in areas where a city is without formal regulatory powers, a railroad will want to maintain good relations with the community.

City officials might also suggest the person contact his or her state or federal lawmaker about changes to existing legislation. Cities can also work towards encouraging such legislative changes.

If the complaint deals with an area where the city has power to regulate, the city can contact the railroad about remedying the situation. If an agreement cannot be reached with the railroad, the city could consider passing and/or enforcing an ordinance.

13. Where can cities get further information?



The League of Minnesota Cities has other information that discusses issues relating to railroads. Call the League's Research and Information Service at (651) 281-1200 or (800) 925-1122 for further information.

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Part I. Introduction

Railroads have played an important role in the development of the United States and in the growth of Minnesota. When trains first reached the western U.S., the population of the West Coast exploded as people could now travel faster and more efficiently. Freight trains made it easier to ship products and the mining, logging, and agriculture industries began growing rapidly. Today, freight trains are an important means of transporting large amounts of goods to various shipping ports that link many Minnesota businesses to the world market.

With growth, however, problems can also arise. As cities grow and more trains run through cities more frequently, traffic congestion and noise can become issues. This memo discusses many of the more common concerns cities must deal with when a railroad runs through city limits. It also outlines many of the areas in which federal and state agencies regulate railroads, and the ways in which cities may regulate railroad issues within their communities.

49 C.F.R. § 1201.1 – 1. See *Information about Minnesota's Railroads* www.dot.state.mn.us/ofrw/railroads.html.

Many different types of railroads operate within Minnesota. Railroads are classified as Class I, Class II or Class III, with Class I railroads having the larger operating revenues. The Surface Transportation Board (STB) determines the classification of each railroad based upon its annual operating revenues. These classifications are used for accounting and reporting standards. Regional and short-line railroads are lighter density lines that have been spun off by a Class I carrier.

Part II. Railroad regulatory agencies

The railroad industry is regulated at various levels. Although primarily controlled at the federal level, the state also has jurisdiction in some situations. Local regulation is more limited.

B. Federal

Many federal regulatory agencies regulate railroad equipment and operations. The following agencies are among those that commonly regulate railroads:

The [FRA](#) can be contacted at 1-800-724-5040.

- ***Federal Railroad Administration (FRA)***. The FRA regulates rail safety in five disciplines, including tracks, signal and train control, operating practices, mechanical equipment, and hazardous materials. The FRA is part of the U.S. Department of Transportation.

The [STB](#) can be contacted at (202) 565-1500.

The [FHWA](#) can be contacted at (651) 291-6100.

The [NTSB](#) can be contacted at (630) 377-8177 or (202) 314-6000.

The [EPA](#) can be reached at 1-800-621-8431.

- ***Surface Transportation Board (STB)***. The STB has jurisdiction over many different areas. The important ones relating to railroads include railroad rate and service issues, rail restructurings (such as mergers and line sales, construction, and abandonment), and some related labor issues.
- ***Federal Highway Administration (FHWA)***. The FHWA maintains several highway safety programs and funds to improve railway-crossing safety. This office is primarily responsible for administering federal funds to help with these costs. The agency is part of the U.S. Department of Transportation.
- ***National Transportation Safety Board (NTSB)***. The NTSB is responsible for independent accident investigation in several areas. With regard to railroads, the NTSB investigates accidents in which there is a fatality or substantial property damage or accidents that involve a passenger train. It also investigates highway accidents, including railroad crossing accidents.
- ***Environmental Protection Agency (EPA)***. The EPA enforces air, water, and noise standards. The air and water standards are of general application to other industries, but the noise standards are specific to railroad equipment and operations.

C. State

The following state agencies are also involved in regulating railroads:

Contact [Mn/DOT](#) at (612) 296-3000 or (800) 657-3774 or (800) 627-3529 (TTY) or the League for the name and phone number of individuals within OFRW and their area of specialty.

The [MPCA](#) can be contacted at (651) 296-6300 or 800-657-3864 or TTY 651-282-5332.

- ***Office of Freight, Railroads and Waterways (OFRW)***. This office deals with a number of railroad areas, including track repair and removal, accident reports, railroad/traffic signals, grade crossing safety, signs, signals, and surfaces, among others. This office is part of the Minnesota Department of Transportation (Mn/DOT) and also part of the Office of Freight and Commercial Vehicle Operations (OFCVO).
- ***Minnesota Pollution Control Agency (MPCA)***. The MPCA enforces clean air, ground, and water rules. Although it doesn't enforce noise regulations, it does measure noise levels for compliance with federal standards.

D. Local regulation

Regulation at the local level is generally rather limited. However, cities currently appear to have some ability to regulate the following areas:

See Part IV - A - *Train horns.*

Use of locomotive horns. A federal rule published Dec. 18, 2003, and effective Dec. 18, 2004, pre-empts state or local government regulations as to the use of locomotive horns. However, a city can maintain a qualified existing quiet zone or establish a new quiet zone by following all the complex procedures set out in this federal train rule. A quiet zone is a section of a rail line that contains one or more consecutive public crossings at which locomotive horns are not routinely sounded.

See Part VII - D - *Special assessments* and E - *Maintenance of railroad property.*

- ***Special assessments.*** Cities can use special assessments to collect the costs of improvements that will benefit railroad property. The amount assessed may not exceed the increase in the market value of the property as a result of the improvement. The cost of nuisance abatement may also be collected using special assessments.

See Part VII - C - *Property taxes.*

- ***Property taxes.*** Cities can collect property taxes from railroad property, but the valuation of the property is done by the state in most circumstances.

See Part VII - F - *Zoning.*

- ***Zoning.*** Cities can enforce their zoning regulations against some types of property owned by railroads. Generally, a city cannot use its zoning regulations to prohibit property being used for railroad operating purposes, but other non-operating property may be made to comply with local zoning regulations.

Part III. Railroad crossings

Railroads cross other public rights-of-way in different fashions. The most common is the grade crossing, where the railroad and the highway/street share an intersection at the same level. In addition to this type of crossing, there are overpasses (where the railroad passes above the street or highway) and underpasses (where the railroad passes beneath the street or highway). This memo only addresses public crossings, although the information may also apply to private rail crossings.

E. Bridges and tunnels

If a grade crossing is found to be hazardous, the commissioner of Mn/DOT may order several remedies. Two of these options are to separate the grade and provide either an underpass (tunnel) or an overpass (bridge) for the tracks. The commissioner of Mn/DOT will also determine the cost of installing and maintaining such structures. The cost is usually divided between the railroad authority and the road authority (city, town or county).

[Minn. Stat. § 219.40, subd. 1.](#)

Also see Part III - B - 7 - *Dangerous crossings—how to proceed.*

F. Grade crossings

[Minn. Stat. § 219.16.](#)

According to Mn/DOT, there are 5,093 public rail crossings and 3,254 private rail crossings in Minnesota. State statute defines a “grade crossing” as the intersection of a public highway and the tracks of a railroad on the same plane or level. This definition does not include street railways within a city’s limits.

[49 C.F.R. § 234.5.](#)

Federal regulation defines a “highway-rail grade crossing” as a location where a public highway, road, street or private roadway crosses one or more railroad tracks at grade. This definition also includes sidewalks and pathways that cross railroad tracks.

Sternitzke v. Donahue’s Jewelers, 83 N.W.2d 96 (1957); *Donalk v. Moses*, 94 N.W.2d 255 (1959); *Kopveiler v. Northern Pac. Ry. Co.*, 160 N.W.2d 142 (Minn. 1968).

Cities retain the primary duty and responsibility with respect to the maintenance and repair of public sidewalks in the right of way adjacent to a highway-rail grade crossing. A city should adopt a policy for street and sidewalk maintenance, inspection, and repair and follow their policy. For more information, see the LMCIT information memo, “*Streets and Sidewalks.*”

1. New grade crossings

[Minn. Stat. § 219.072;](#)
[Minn. R. § 8830.2700.](#)

The commissioner of Mn/DOT must approve all new grade crossings. The city and the railroad can agree to the new crossing and then seek approval from the commissioner. If the city and the railroad cannot agree, either can file a petition with the commissioner to decide on any of the following matters:

- Whether a new crossing is needed.
- Where the new crossing should be located.
- The type of warning devices required.

The petition must set forth the facts and submit the matter to the commissioner for determination. The commissioner will give reasonable notice to hold a hearing and issue an order determining the matters submitted.

If the commissioner approves the new grade crossing, he or she may also direct that the costs be divided between the railroad company and the city as the parties may agree. If the city and the railroad do not agree on the division of costs, the commissioner may determine the amount on the basis of benefit to each.

[Minn. Stat. § 219.073.](#)

Mn/DOT is seeking to reduce the number of grade crossings in the state. Because of this, it may be difficult for cities to get approval of a new grade crossing.

2. Changes of grade

Minn. Stat. § 219.08.

State law also sets requirements for grade crossing changes. When a railroad company changes or raises the grade of its tracks at a crossing, it must also grade the approaches on each side in order to make the approach and crossing of the tracks safe for vehicles.

3. Grade crossing improvements

23 C.F.R. § 646.210 (b).

The Federal Highway Administration (FHWA) has adopted a regulation providing that federal aid projects for grade crossing improvements do not require railroads to share in the cost of improvements.

23 C.F.R. § 646.210 (a).

The regulation also states that state laws requiring railroads to share in the cost of work for the elimination of hazards at railroad crossings do not apply to federal aid projects.

4. Maintenance/upgrades

Minn. Stat. § 219.071, subds. 1, 2.

It is the responsibility of the railroad (both the owner and the lessee) to keep a grade crossing surface safe and passable for vehicles in a manner consistent with federal track safety standards.

If a grade crossing surface needs improvement, repair or maintenance, the work may be paid jointly by the railroad company, its lessee, the road authority, and available state and federal funds.

5. Closing crossings

Minn. Stat. § 219.073.

In recent years, Mn/DOT has sought to reduce the number of grade crossings in Minnesota.

Minn. Stat. § 219.074.

Public bodies and railroad companies may agree to the vacation, relocation, consolidation or separation of grades at grade crossings. If they cannot agree on the relocation, manner of construction, or a reasonable division of expenses, either may file a petition with Mn/DOT, which will hold a hearing to make a determination.

6. Signs and signals

Minn. Stat. § 219.06.

State statute requires that a railroad company must maintain a proper and conspicuous sign wherever its lines cross a public road. If a railroad fails to do this, it must pay \$10 for each day it fails to meet the requirement. The money must be paid to the municipality with authority over the public road the railroad crosses.

Minn. Stat. §§ 219.17 -20;
Minn. Stat. § 219.26; Minn.
Stat. § 219.30.

Mn/DOT regulates railroad warning signs and crossing stop signs. Municipalities must get permission from Mn/DOT in order to install a new sign or to remove an existing sign. It is a crime to remove, damage or destroy any railroad sign or device without permission from Mn/DOT.

Minn. Stat. § 219.20.

A stop sign is required at each grade crossing if necessary for the reasonable protection of life and property. The commissioner of Mn/DOT determines whether conditions exist that make it necessary for people to stop before the crossing. A city may submit a petition to the commissioner if it would like a stop sign installed at a crossing.

Minn. Stat. § 219.24.

The Mn/DOT commissioner also has the power to determine if safety issues warrant the railroad installing additional devices or signals. However, the public authority responsible for safety and maintenance of the roadway that crosses the railroad tracks may install additional or alternative safety measures to maintain an existing quiet zone or establish a new quiet zone subject to the federal train horn rule. Local authorities must notify all involved well before installing additional or alternative safety measures at a grade crossing.

See Part IV-A *Train Horns I. Federal Train Horn Rule.*

Minn. Stat. § 219.19.

The Mn/DOT commissioner may designate additional warning sign requirements if necessary for the protection of life and property. If an additional warning sign is required, the road authority pays the cost and maintenance of the sign.

49 U.S.C.A. § 20504; 49 U.S.C.A. § 20134 (b); 49 C.F.R. § 234.1-234.6.

The U.S. Dept. of Transportation regulates signal systems to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings. The regulation is done through the Surface Transportation Board (STB) and the Federal Railroad Administration (FRA).

7. Dangerous crossings—how to proceed

Minn. Stat. § 219.14.

The commissioner of Mn/DOT may investigate and determine whether a railroad crossing over a street or public highway is dangerous to life and property. If the crossing is found to be dangerous, the commissioner may order the crossing protected in any reasonable manner, including requiring the railroad to separate the grades.

Minn. Stat. § 219.39.

City councils, county boards, township boards, and railroad companies may submit petitions asking the commissioner to determine if a railroad crossing a street or highway appears to be dangerous to life and property. The petition must give reasons for the allegation. Upon receiving the petition, the commissioner must investigate the matters contained in the complaint and, when necessary, initiate a hearing.

G. Safety

Also see Part VIII - B – *Liability.*

Safety is an important issue to railroads, public roadway authorities, and the general public. Sight lines, obstructions to view and traffic, and maintenance of the crossing and its signs and signals are important for ensuring safety.

1. Sight lines/view

Railroads are generally responsible for keeping obstructions from blocking the view of motorists or pedestrians who will cross their tracks at railroad crossings.

Minn. Stat. § 219.384, subd. 1.

The governing body of a municipality may require the removal of an obstruction to a railroad right-of-way in order to provide an adequate view of oncoming trains at a railroad crossing. Removal of such obstructions may be required of any of the following:

- The railroad company.
- The road authority.
- An abutting property owner.

Minn. Stat. § 219.384, subd. 1.

The municipality must give written notice that the obstruction interferes with the safety of the public traveling across the railroad crossing.

Minn. Stat. § 219.384, subd. 2.

If the obstruction is not removed within 30 days after the written notice, a fine may be imposed. The amount of the fine is \$50 for each day the situation remains uncorrected, and may be recovered in a civil court action.

2. Signals

49 U.S.C.A. § 20134 (b);
49 C.F.R. § 234.1-234.6.
See discussion in previous section.

The U.S. Department of Transportation has adopted regulations to ensure safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings. The state also regulates the installation of signs and signals at grade crossings.

3. Traffic obstruction

Minn. Stat. § 219.383, subd. 3.

A railroad is prohibited from allowing a standing train, car, engine or other railroad equipment to block a grade crossing for longer than 10 minutes. This prohibition does not apply in First Class cities that regulate street obstruction by ordinance.

Part IV. Noise

Residents who live near railroad right-of-ways sometimes complain about noise and vibration from railroads. Federal or state laws pre-empt local control of these issues. However, the train horn rule, discussed in the next section, now provides an opportunity for cities to mitigate the effects of train horn noise by establishing new “quiet zones.” The rule also details actions communities with pre-existing “whistle bans” can take to preserve the quiet they are accustomed to.

H. Train horns

See Part IV - *Federal Regulations*.

[Minn. Stat. § 219.166](#)
preempted by 49 C.F.R. § 222.7.

Train horns are warning devices used to signal railroad employees and others. They are used to warn the public that a train is approaching a crossing. They are also used to tell railroad employees what the engineer is about to do (stop, back up, pull forward, etc.). Engineers blow their locomotive horns at all public crossings unless a city has passed an ordinance to prohibit the practice. The train horn rule, a federal rule, published Dec. 18, 2003, and effective Dec. 18, 2004, pre-empts city ordinances that prohibit the sounding of locomotive horns unless the city has met the rule's extensive criteria to either maintain an existing quiet zone or establish a new quiet zone.

1. Federal regulation

49 C.F.R. § 222.

The train horn rule, a federal regulation published on Dec. 18, 2003, and effective on Dec. 18, 2004, requires that locomotive horns be sounded at virtually all public, highway/rail at-grade crossings in the United States. The rule contains additional provisions that set a maximum sound level for locomotive horns and limits sound directed to the side.

The rule does not apply to the use of locomotive horns on:

49 C.F.R. § 222.5.

- A railroad that exclusively operates freight trains on track that is not part of the general railroad system of transportation.

49 C.F.R. § 222.5.

- Passenger railroads that operate at a maximum speed of 15 miles per hour and only on track that is not part of the general railroad system of transportation.

49 C.F.R. § 222.5.

- Rapid transit operation within an urban area that is not connected to the general railroad system of transportation.

49 C.F.R. § 222, Appendix C
Guide to Establishing Quiet Zones.

Tammy Wagner, Region 4
Highway Crossing Manager
1-800-724-5040.

49 C.F.R. § 222.39.

The basic premise of the train horn rule is to permit quiet zones only if overall safety is equivalent to crossings where train horns are sounded. The two types of quiet zones allowed under the rule are new quiet zones or pre-rule quiet zones. Some information on each type of quiet zone is provided below. However, cities must work with the city attorney and the FRA to ensure that a particular quiet zone complies with the detailed requirements of the rule.

2. New quiet zone

49 C.F.R. § 222, Appendix C.

In order for a quiet zone to be qualified under this rule, the lack of the train horn must not present a significant risk with respect to loss of life or serious personal injury, or the significant risk must have been compensated for by other means. The rule provides four basic ways in which a quiet zone may be established.

- One or more supplemental safety measures as identified in the rule are installed at each public crossing in the quiet zone.

- The quiet zone risk index is equal to, or less than, the nationwide significant risk threshold without implementation of additional safety measures at any crossings in the quiet zone.
- Additional safety measures are implemented at selected crossings resulting in the quiet zone risk index being reduced to a level equal to, or less than, the nationwide significant risk threshold.
- Additional safety measures are taken at selected crossings resulting in the quiet zone risk index being reduced to at least the level of risk that would exist if train horns were sounded at every public crossing in the quiet zone.

49 C.F.R. § 222, Appendix A and B.

The supplementary and alternative safety measures, which a local government most likely will have to pay for, must comply with extensive requirements of Appendix A and B of the rule.

Quiet Zone Calculator
www.fra.dot.gov/Content3.asp?P=1337.

The FRA has created the “Quiet Zone Calculator,” a web-based tool that allows local jurisdictions to research the feasibility of creating a quiet zone in their community that complies with FRA’s train horn rule. City planners, traffic engineers, and other transportation professionals are the anticipated users of the calculator.

See “Pre-rule quiet zones” discussion in next section.

The Quiet Zone Calculator allows users to access the FRA-maintained national grade crossing inventory and FRA highway-rail grade crossing accident records, select a series of crossings, test proposed safety implementation plans that are in compliance with the horn rule, and generate summary reports. The user will be able to create multiple scenarios for new quiet zones as well as for zones that already have a whistle ban.

The calculator will determine the risk level for the proposed quiet zone corridor. The risk level will then be evaluated to determine whether quiet zone criteria have been met. If not, supplemental safety measures can be applied to reduce the risk until the criteria have been met.

1. Pre-rule quiet zones

49 C.F.R. § 222, Appendix C
Guide to Establishing Quiet Zones.

A pre-rule quiet zone is a quiet zone that contains one or more consecutive grade crossings subject to a whistle ban that has been actively enforced or observed as of Oct. 9, 1996, and Dec. 18, 2003.

The rule treats pre-rule quiet zones slightly differently than new quiet zones. This is a reflection of the fact that some communities have restricted train horns sounding in their jurisdiction for quite some time and wish to continue that restriction.

According to the FRA, there are a number of cities in Minnesota with existing whistle bans that may qualify as a pre-rule quiet zone. Cities with an existing whistle ban that wish to maintain the whistle ban as a pre-rule quiet zone, should work with the city attorney to meet the extensive requirements for a pre-rule quiet zone.

See Status of Existing Whistle Bans
www.fra.dot.gov/Content3.asp?P=1390.

The rule provides that an existing whistle ban may qualify for automatic FRA approval as a pre-rule quiet zone in one of three ways:

- By installing a supplemental safety measure (SSM) at each public crossing in the quiet zone.
- By having a quiet zone risk index that is equal to or less than the national significant risk threshold.
- By having a quiet zone risk index that is equal to or less than twice then the national significant risk threshold, and ensuring there have been no relevant collisions at any of the public crossings during the past five years

Quiet Zone Calculator
www.fra.dot.gov/Content3.asp?P=1337.

Ultimately, the FRA's Quiet Zone Calculator must be used to determine whether an existing whistle ban qualifies for automatic approval under the rule. The calculator will allow the user to identify the crossings that are in the whistle ban. The user will then be able to update the relevant data elements for each crossing so that the actual conditions are used in the risk calculations. This is the only way to actually determine an existing whistle ban's status under the rule.

Train horns will not sound in existing whistle ban areas if the city states an intention to the FRA and others to maintain a pre-rule quiet zone and do whatever is required within five years of publication. Again, cities must consult legal counsel to ensure all the legal requirements of the rule are met for either a new quiet zone or a pre-rule quiet zone.

49 C.F.R. § 222.41(b)(2).

Pre-rule quiet zones that do not meet the requirements for automatic approval, must meet the same requirements as new quiet zones as discussed above. In other words, risk must be reduced through the use of supplemental or alternative safety measures so that the quiet zone risk index for the quiet zone has been reduced to either the risk level that would exist if locomotive horns sounded at all crossings in the quiet zone or to a risk level equal to or less than the nationwide significant risk threshold. In general, pre-rule quiet zones must meet these requirements by Dec. 18, 2008.

49 C.F.R. § 222.23.

It is important to note that even in a quiet zone, a train horn may be sounded in an emergency situation, at the sole discretion of a locomotive engineer, to provide a warning to vehicle operators, pedestrians, trespassers or crews on other trains if such action is appropriate in order to prevent imminent injury, death or property damage.

49 C.F.R. § 210.3 (b)(3).

Several federal regulations set maximum noise levels for certain railroad equipment. Although many operations and equipment are regulated and have maximum noise levels, horns that are operated as warning devices are generally exempt from these limits.

49 C.F.R. § 229.129.

Audible warning devices on trains must meet minimum sound level requirements. Federal regulation requires each lead locomotive to be equipped with an audible warning device that produces a minimum sound level of 96 dBA at 100 feet forward of the locomotive in its direction of travel.

2. State regulation

Minn. Stat. § 219.567
probably pre-empted by 49
C.F.R. § 222.7.

State law, probably pre-empted by the federal train horn rule, says it is a misdemeanor for an engineer driving a train to fail to do the following:

- Ring or sound the bell at least 80 rods (440 yards or 1,320 feet) from the intersection.
- Continue to ring or sound the bell at intervals until the train has completely crossed the road or street.

I. Other train noise

Not only noise from train horns can disturb residents. The noise from railroad operations has also been an issue in some communities. This has included such things as engine noise and switching and car coupling operations.

1. Federal regulation

49 C.F.R. § 210.3.

Federal statutes and regulations set standards for railroad noise. The following type of operations and equipment have maximum noise levels that cannot be exceeded:

42 U.S.C.A. § 4916.

49 C.F.R. § 229.121.

40 C.F.R. § 201.11.

40 C.F.R. § 201.12.

40 C.F.R. § 201.15.

49 C.F.R. § Pt. 210, App.
A.

49 C.F.R. § 210.11.

- Noise emission.
- Locomotive cab noise.
- Stationary operations of locomotives.
- Moving operations of locomotives.
- Car coupling operations.
- General railroad noise standards.

The Federal Railroad Administration (FRA) may grant a waiver of compliance with any FRA noise regulation if it is in the public interest and consistent with railroad noise abatement and safety. The waiver may be subject to any condition the administrator deems necessary.

2. State regulation

State noise regulations are generally not enforced against railroads. However, the Minnesota Pollution Control Agency (MPCA) measures noise from railroads to determine compliance with federal standards.

3. Local regulation

42 U.S.C.A. § 4916 (c).

No state or political subdivision may adopt or enforce any noise emission standards for the operation of railroad equipment unless the standard is identical to the Environmental Protection Agency (EPA) regulation. A state or political subdivision may still establish and enforce regulations on noise and the operation or movement of any product if the EPA administrator and the U.S. Secretary of Transportation agree that both of the following situations exist:

- The local regulation is necessitated by special local conditions.
- The local regulation is not in conflict with any of the federal regulations.

J. Scheduling

The number of trains that travel per day and the times they are scheduled to travel is generally not regulated at the state or federal levels. Scheduling is established by individual railroads. Cities are unlikely to be able to regulate this area, as it would probably be seen as a restriction of interstate commerce.

Part V. Speed

Although both the state and federal government regulate train speed, the majority of this regulation occurs at the federal level. Only crossing speeds are regulated by the state.

Federal law provides maximum speed limits for trains based upon the contents of the train and the classification of the track. The commissioner of Mn/DOT sets safe speed limits for trains with regard to crossings. In most cases, local regulation of train speed is probably pre-empted by these federal and state agencies.

In February 1999, a city petitioned the commissioner of Mn/DOT to impose a speed limit of 10 miles-per-hour for trains operating on a railroad line that went along a city street. The city felt the segment of track is unique because it runs down the middle of the street. As a result, a large number of grade crossings and pedestrian and vehicle traffic make the area particularly unsafe.

The railroad filed opposition to the city's petition, and a contested case hearing was held before an administrative law judge (ALJ) in April 1999. The ALJ issued a written recommendation agreeing with the city's position. Consistent with this recommendation, the commissioner issued an order setting a 10 miles-per-hour speed limit along the track until the railroad and the city could improve the safety and warning mechanisms and reduce visual clutter in the area.

In the Matter of the Speed Limit for the Union Pacific Railroad through the City of Shakopee, 610 N.W.2d 677 (Minn. App. 2000).

The railroad appealed the ALJ's decision, arguing that the commissioner's authority to impose railroad speed limits is completely pre-empted by federal regulations. The Minnesota Court of Appeals disagreed, however. It held that the commissioner's authority is not pre-empted by federal law.

K. Grade crossing speeds

Minn. Stat. § 219.383, subd. 1, 2.

State statute allows a city council or a railroad to petition the commissioner of Mn/DOT to consider setting a reasonable speed limit for trains that cross public highways or streets in the city. The commissioner may hold a public hearing before setting a speed for the operation of an engine or train.

Despite the existence of this statute, some feel the federal regulation of track speed pre-empts state authority to regulate in this area.

Fritz v. First Division of St. P. & P.R. Co., 22 Minn. 404 (1876).

An early Minnesota Supreme Court decision held that a city ordinance that set a speed limit for trains meant that a railroad company was negligent for an accident that occurred when the train was exceeding the speed limit. It is quite possible such an ordinance could be pre-empted at the state or federal levels today, given the date of this case (1876).

Many cities have sought voluntary compliance with railroads due to special circumstances, such as railroad tracks that are near schools, etc.

L. Track speeds

The construction and design of railroad tracks are also important with regard to the maximum speed a train can travel. Track speeds based upon the track construction and design are regulated at the federal level. Regulations require that tracks meet certain standards in order to be designated as a certain class of track. The class of a track determines at what maximum speed trains can travel along it.

The following table indicates the classes of tracks and the respective speeds that may be traveled on each class:

49 C.F.R. § 213.9 (b).

Track class (Note: If a track does not meet the requirements for its intended class, it is reclassified to the next lowest class of track.)	Speed for freight trains (mph)	Speed for passenger trains (mph)
Excepted track	10	10
Class 1 track	10	15
Class 2 track	25	30
Class 3 track	40	60
Class 4 track	60	80
Class 5 track	80	90
Class 6 track	110	110
Class 7 track	125	125
Class 8 track	160	160
Class 9 track	200	200

49 C.F.R. § 213.307 (a).

This memo does not discuss the detailed structural requirements of each class of track. For further information regarding track classifications, cities should contact the FRA.

M. Signal systems

49 C.F.R. § 236.0 (c), (d).

The types of signal systems a railroad has can also affect the speed that a train may travel. The FRA requires that certain block signal systems be in place before a train can travel at speeds greater than 59 mph (passenger trains) or 49 mph (freight trains) on the appropriate class of track. Special signal systems are required to exceed 79 mph.

Signal systems are tested by Mn/DOT to ensure the signal will allow enough warning time given the speed that trains will travel on it. If the signal does not allow adequate warning, Mn/DOT requires it be replaced with one that will.

N. Contents of train

Contact the [FRA](#) for further details on hazardous material shipments. Also see Part VIII - A - 2 - *Hazardous material shipments*.

As noted above in the discussion of track classes, there are different speeds for trains depending upon their content. Freight and passenger trains are allowed to travel at different maximum speeds on the same stretch of track. There are sometimes additional restrictions for trains carrying hazardous materials.

Part VI. Railroad equipment

Both state and federal statutes contain requirements for railroad equipment. As such, cities are unlikely to be able to regulate in this area. The following areas are regulated by state and federal law or regulation:

49 U.S.C.A. § 20143.

Burlington Northern R. Co. v. State of Minnesota, 882 F.2d 1349; *Southern Pacific Co. v. Arizona*, 325 U.S. 761 (1945).

49 U.S.C.A. § 20148.

49 U.S.C.A. § 20142.

- ***Locomotive engines and visibility.***
- ***Train length.*** Federal regulation pre-empts state law or regulations in this area. The U.S. Supreme Court found that states could not enforce statutes that limit the number of cars a train could have. It was found to be a restriction of interstate commerce and was held unconstitutional.
- ***Visibility of railroad cars.***
- ***Tracks.***

Part VII. Railroad property

This section deals with railroad real estate in the following areas:

- Acquisition and disposal of railroad property.
- Condemnation of railroad property by cities.
- Property taxes.
- Special assessments.
- Maintenance of railroad property.
- Zoning.

O. Acquisition and disposal of railroad property

Depending upon how a specific piece of land has been acquired by a railroad, there may be restrictions on the use of that land or the ability of the railroad to sell, lease or abandon the land. It may be important for a city to understand these restrictions if it is seeking to buy railroad property.

Hofman Oil Co., Inc. v. City of Princeton, (No. C9-01-819) 2002 WL 4598 (Minn. Ct. App. Jan. 2, 2002).

For example, a railroad must offer private leaseholders the “right of first refusal” or the first opportunity to purchase real property within a right-of-way that is either being abandoned or offered for sale.

Railroads acquire real property in a number of different ways. Some land may have been part of a federal land grant that was made to many railroads by Congress during the 1860s. Some railroad charters may mention specific portions of land and contain limits on its use or sale. Other land may have been acquired by purchase or eminent domain.

[Minn. Stat. § 222.27.](#)

Railroad corporations have the power to acquire land by purchase or eminent domain. This applies to any land that is needed for roadways, spur and side tracks, rights-of-way, depot grounds, yards, grounds for gravel pits, machine shops, warehouses, elevators, depots, station houses, and all other structures necessary for the use and operation of the road.

[Minn. Stat. § 222.26.](#)

A municipality and a railroad may agree upon the manner, terms, and conditions under which a municipal right-of-way may be used or occupied by the railroad. A railroad may use condemnation to acquire property over other public rights-of-way.

[Minn. Stat. § 117.38-41.](#)

Sometimes the United States government, the state of Minnesota, or another government authority authorizes the change of a public watercourse (such as a stream, river, harbor, etc.). In such a situation, a railroad may acquire property using eminent domain if it is interested in the change of the watercourse for the purpose of enlarging or improving their property.

[49 U.S.C.A. § 10903.](#)

Federal statute requires that a railroad must file an application with the Surface Transportation Board before it can abandon any part of a line.

P. Condemnation of railroad property by cities

[Minn. Stat. § 117.57.](#)

The only state statute that specifically addresses condemnation of railroad property is found in the economic development chapter and deals with the clean-up of contaminated railroad property. The railroad property must meet all of the following criteria under this statute in order to use this authority:

[Minn. Stat. § 117.57, subd. 1\(1\).](#)

- It must not be a line of track that is required to be abandoned under federal law unless the abandonment has been approved.

[Minn. Stat. § 117.57, subd. 1\(2\).](#)

- It must not be currently used for any of the following:
 - Switching.
 - Loading or unloading.
 - Classification activities.

(Note: Storage, maintenance, and repair activities are not included in the above activities.)

[Minn. Stat. § 117.57, subd. 1\(3\).](#)

- The land to be taken must contain pollution or the threatened release of pollution.

Minn. Stat. § 117.57, subd. 1(4).

- The authority must intend to develop the property, and have a plan for its cleanup and development within five years to maximize its market value.

There are some additional restrictions on the use of this type of eminent domain that should also be considered. Municipalities that want to use eminent domain to acquire railroad property should consult with their attorney before deciding to use this process.

Q. Property taxes

Minn. Stat. § 270.81, subd. 2; Minn. R. § 8106.0600.

Cities may levy property taxes against property that is owned by railroads. Property that is not used for railroad operating purposes is valued and taxed by local taxing jurisdictions in the same manner as other properties. This means the local assessor determines the classification and market value of railroad non-operating property for property taxation purposes.

Minn. Stat. §§ 270.80-88.

The taxing procedure for railroad operating property, however, is done differently. The market value of property used for railroad purposes is annually determined by the Department of Revenue using a complex formula. The values are then apportioned to local jurisdictions and certified to each respective county after an equalization formula has been applied. At this point, the local taxing jurisdictions proceed in the same manner as for other commercial and industrial properties that are being taxed.

Minn. Stat. § 270.81, subd. 3.

The Department of Revenue determines if particular property owned by a railroad is classified as operating property or non-operating property.

49 U.S.C.A. § 11501.

Federal statute prohibits discriminating against railroad operating property when determining the market value of the land for taxing purposes. This means railroad transportation property may not be assessed at a higher ratio to true market value than the ratio of other commercial and industrial property in the same jurisdiction.

Minn. Stat. § 270.82; Minn. R. § 8106.0300, subp. 1.

All railroad companies operating in Minnesota are required to file an annual report with the Department of Revenue. The information on this report is used for railroad property tax purposes. Basically, the Department of Revenue does the following:

Minn. Stat. § 270.84 and Minn. R. § 8106.0400.

- **Valuation.** This determines the fair market value (sales price) of the railroad's property.

Minn. R. § 8106.0500.

- **Allocation.** This determines how much of the market value is attributable to Minnesota.

Minn. Stat. § 270.86, subd. 1; Minn. R. § 8106.0700.

- **Apportionment.** This determines how much of the market value is apportioned to each local taxing jurisdiction that contains railroad property.

Minn. Stat. § 270.86, subd. 2; Minn. R. § 8106.0800.

- **Equalization.** This is an adjustment that is made to the final apportioned figures to ensure the railroad property values coincide with the values of other commercial and industrial properties within each county.

Cities really only become involved after the value of the railroad property has been determined by the state and certified to the county auditor. The taxing procedure is the same as for other properties the city taxes. For further information on railroad property taxes, contact the Department of Revenue, Property Tax Division.

R. Special assessments

See *Local Improvement Guide* (515a1a.3).

Cities are apparently able to levy special assessments against railroad property for the cost of improvements that benefit those properties. Notice must be given to the railroad in the same way that notice is given to owners of other property. As with any special assessments, the assessment amount cannot exceed the increase in market value of the property as a result of the improvement. (For more information, see the League research memo that discusses special assessment procedures in more detail.)

1. Supporting statutes, decisions, and opinions

Minn. Stat. § 429.061,
subd. 4.

Federal statutes do not address special assessments and railroad property. Since the federal statutes are silent, state and local regulation would appear not to be pre-empted. The state special assessment statutes address the ability of municipalities to recover unpaid special assessments from railroad rights-of-way. A lawsuit may be brought by the municipality to enforce the collection of the indebtedness, unless a different method of collection is provided for by any contract between the railroad right-of-way owner and the municipality.

See previous discussion on
property taxes.

It may be a challenge for cities to determine the market value of the land as well as the increase in market value of the land due to the improvement. Valuation of railroad land is discussed in another section of this memo.

A.G. Op. 408c (Oct. 8,
1962).

In a 1962 opinion, the attorney general concluded that a city could specially assess property owned by a railroad company for a street, curb, and gutter project.

A.G. Ops. 624-D-10 (Jun.
14, 1950) and (Aug. 24,
1950).

In two different earlier opinions, the attorney general's conclusion was similar, finding that the cost of a water main could be assessed to railroad property if the property was benefited by the improvement.

*In re Improvement of
Superior Street, Duluth*,
172 Minn. 554 (1927);
*Minnesota Transfer Ry. Co.
v. St. Paul*, 165 Minn. 8
(1925); and *State v. Great
Northern Ry. Co.*, 165
Minn. 22 (1925).

In several early court decisions, the Minnesota Supreme Court found that railroad property could be specially assessed for the cost of improvements that benefited the property. However, the assessment must not exceed the particular benefit to the specific property.

*City of Owatonna v.
Chicago, R. I. & P. R. Co.*,
450 F.2d 87 (8th Cir.)
(1971).

2. Example of a city assessment policy

See also Part VII - E - *Maintenance of railroad property*.

The practice in a larger Minnesota city is not to assess railroad operating property for the cost of improvements that benefit the property. Although the city has the power to levy special assessments for improvements on railroad right-of-way property, it chooses not to levy assessments against this type of property for the following reasons:

- The difficulty in establishing the value of the property.
- The difficulty in establishing the value of the improvement to the property.

See discussion of nuisance abatement in next section.

Even though the city does not specially assess railroad right-of-way property, it will assess property that is not being used as a right-of-way. This generally includes excess property or property that the railroad might lease for non-railroad use. However, the city will specially assess all railroad properties for nuisance abatement, regardless of whether it is used as a railroad right-of-way.

Under this city's policy, when the railroad objects to a special assessment amount for an improvement, the city reaches a compromise with the railroad regarding the amount. This compromise appears to be similar to the practice that many cities follow when handling objections to special assessment amounts from other landowners who object to their assessment amounts. The city has found this approach to be less expensive and time-consuming than going to court to recover an unpaid assessment.

S. Maintenance of railroad property

See *Model Nuisance Ordinance* (400a.3).

Occasionally, railroad property can fall into disrepair or become a dumping ground for appliances or garbage. These conditions can become serious threats to public health. Cities can address these situations in their nuisance ordinances, and provide for making unpaid service charges to abate nuisances a special assessment against the property.

[Minn. Stat. § 429.101, subd. 3.](#)

When a nuisance is found to exist on railroad property, a city should first make the owner of the property aware of the condition. Should the problem not be remedied, the city could proceed under its nuisance ordinance to clean up the problem and assess the cost under the special assessment statutes.

Both property owner and lessee can be held responsible for the cost of cleaning up property. In a case where the property is leased, the city should make both the owner and the person leasing the property aware of the condition. The city could try to bill directly or assess the cost to the property under the state's special assessment statutes.

See Part VII - D - *Special assessments*.

A larger Minnesota city's practice is to levy special assessments on railroad properties for nuisance abatement, regardless of whether the property is used as a railroad right-of-way. Unlike local improvements, it is easy to document a nuisance and the cost of abating the nuisance. The railroad generally has not questioned bills or special assessment amounts for nuisance abatement.

If the railroad has an easement over property, rather than owning title to the land under the property, the city can seek to recover the charges in a court action—although special assessments may still be used to collect the cost of the clean-up. The responsibility to keep the property in a nuisance-free condition is that of the landowner, who can collect the costs from the railroad company.

T. Zoning

It seems unlikely that cities have the ability to use zoning regulations to prohibit land from being used for railroad operating purposes. However, cities may be able to enforce some aspects of their zoning regulations on land owned by railroads. If land is owned by a railroad and used for non-railroad purposes, all zoning regulations are likely applicable.

No federal or state statutes specifically address the zoning of railroad property. Likewise, no Minnesota court decisions address this issue. However, several court decisions from other states have dealt with local zoning of railroad property. Although these decisions have limited application in Minnesota, they indicate a general trend that appears to be consistent. Thus, there is a good chance that a court decision could be similar in Minnesota, especially given the federal laws that have been considered in these other cases.

Gulf, C. & S.F. Ry. Co. v. White (1955, Tex Civ App) 281 SW2d 441.

In a 1955 Texas court decision, the court found that a city's zoning ordinance could not be used to prohibit the railroad from building an extension of a track on property already owned by the railroad. Although the landowners who protested the extension of the track believed the land would need to be zoned commercial rather than residential, the court found the following:

- The state had a sovereign interest in railroads.
- A state law allowed the railroad to acquire property through eminent domain to use it for the purpose that was sought.
- The municipality was prohibited from passing an ordinance that conflicts with something that the state law would allow.

Rapid Transit Advocates, Inc. v. Southern Cal. Rapid Transit Dist. (1986, 2nd Dist) 185 Cal App 3d 996.

The California Court of Appeals came to a similar conclusion in a more recent decision. It found that railways and railroads of a governmental entity were exempt from local zoning regulations.

Surface Transportation Board Decision (STB Finance Docket no. 33200, July 1, 1997).

The Surface Transportation Board (STB) was also asked to deal with a local zoning matter. The issue considered was whether state and local environmental, building, and land use permits could be required for an upgrade of a section of a railroad line.

Surface Transportation Board Decision (STB Finance Docket no. 33200, July 1, 1997).

In this 1997 agency decision, the STB held it had exclusive authority over the construction and operation of rail lines that are part of the interstate rail network. The STB also concluded that if such additional local regulation was allowed, it would be burdensome for the railroad and would serve to restrict interstate commerce. As a result, the power to authorize or deny the construction of railroad lines using a local permit process was not allowed.

A.G. Op. 59-a-32 (Jan. 24, 1952).

The Minnesota attorney general has addressed railroad and zoning issues in a few, rather dated opinions. In a 1952 opinion, a person was considering constructing a warehouse on a portion of the railroad right-of-way. The city asked if it had the right to zone the use of property on a railroad right-of-way. The attorney general concluded that nothing in the state zoning statutes or the state statutes on railroad right-of-ways would exempt railroad property from a city's zoning ordinance. It should be noted, however, that no mention of federal laws are made in this opinion.

A.G. Op. 817 (Oct. 2, 1944).

In a 1944 opinion, the attorney general considered whether a city's zoning ordinance could prevent the building of a railroad track. The facts in this situation were that a railroad might acquire playground property in a residential district using eminent domain. The city asked if the condemnation of the land could be stopped either because the land had been dedicated for park purposes or because it was zoned for residential use.

A.G. Op. 817 (Oct. 2, 1944).

The opinion declared that the railroad could not acquire a public playground for right-of-way use unless the use was consistent with its use as a playground. Whether or not the use was consistent was a fact determination that may need to be determined in court. The attorney general also found that the city's zoning ordinance could not prevent condemnation of right-of-way through a residential district.

Given the conclusions of the court decisions from other states and the STB decision, it would seem unlikely a city could use zoning regulations to prohibit construction or use of railroad operating property. However, such construction can likely be made to meet regulation standards such as the Americans with Disabilities Act accessibility guidelines, the state building and fire codes, and local setback and other design standards.

Property used for non-railroad purposes may be considered proprietary and thus be subjected to local zoning controls, including regulations that prohibit certain construction and use. City councils should consult with their city attorneys before attempting to enforce zoning regulations on any railroad properties.