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Railroad noise: economic valuation and policy

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Abstract

In developed countries noise annoyance is an important source of environmental concern. Research on noise annoyance caused by railroad traffic is relatively underdeveloped. Here, a causal chain model is presented in which railroad traffic density, noise emission, noise immission and noise annoyance are causally related. Noise level, habituation and railroad usage are determinant factors. Noise annoyance causes social and economic costs, such as property value depreciation. Policy measures, aimed at reducing social and economic costs, are incorporated in various stages of the causal model. These measures can be subdivided into noise regulation and direct prevention measures. Stricter threshold values lead to higher total costs, but may lower social costs per capita. Economic feasibility of policy measures is usually analyzed by means of a cost-benefit case study. Methods of analysis used are diverse and ad hoc. Therefore, results of different case studies are not easily compared in terms of research synthesis.
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1. Introduction

Economic growth and land use policy cause a situation where noise from surface and airborne traffic is an ever-increasing burden on the residential environment. Noise does not only generate a reduction of the sense of wellbeing of those affected, but also causes property value depreciation. As a result, noise annoyance has become one of the most serious forms of environmental pollution in industrialized economies. Noise pollution is an economic externality, and since silence does not have a market price, it is necessary to deduce its price indirectly. Therefore, determining an appropriate compensation fee is a complicated matter.

In many countries, the use of public transport—in particular, mass transit systems—is favoured so as to ameliorate the negative consequences of private transport, apart from the equity elements

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involved. In order to stimulate the use of public transport, governments tend to plan residential areas close to railroad terminals or railway infrastructure while at the same time residential areas are made more accessible by expanding the railway network. Due to this policy, railway noise annoyance has recently become an issue of increasing importance.

Railway noise is a complex phenomenon. The purpose here is to study the relationships between the components of the railway noise chain, and to identify opportunities for the government to use these relationships in noise prevention. Furthermore, the trade-off between damage costs and noise prevention by the government is discussed. This includes a literature survey on valuation of railroad noise pollution.

2. The railway noise chain system

Railway noise is an interdisciplinary problem, since both economic systems and processes and environmental issues are involved. Economic commodities can only be converted into other economic commodities by means of a co-transformation of natural resources into emissions of noise in this case (Heijungs, 2001). [1] A causal railway noise pollution model of economic and environmental interactions can be identified, with the government as one of the system components. The system is closed through a feedback loop that relates economic externalities to policy measures (Fig. 1). The generation of noise emissions depends on railway traffic characteristics such as frequency and speed, and on noise emission limit values, which are determined by government policy.

Noise emission and noise immission values are not necessarily equal. [2] Important factors are the distance between the railroad track and the measurement point, meteorological factors and the presence of objects located between the railroad track and the measurement point and interfering with the noise dispersion. Government measures to reduce noise exposure such as the use of noise control barriers are an example of the latter category. Activities people are involved in, the attitude of residents towards the railway and habituation are some examples of factors determining whether or not immission leads to annoyance.

Noise annoyance has detrimental social and economic consequences. Social effects involve both psychological and physiological health problems. Economic effects are manifold and diverse but they are always economic costs. Economic costs may result from social consequences. It is obvious that school buildings, medical premises, residential areas and business premises exposed to noise will affect the economy through the human capital stock. Railway noise may have a negative effect on property values. Moreover, noise limit values put restrictions on construction plans in the vicinity of the railroad track. Reducing such economic effects or meeting noise limit values involves costs. Sometimes, the feasibility of noise reduction measures is assessed by a cost-benefit analysis.

[1] The emission level is the decibel level at the noise source.

[2] The immission of noise is the decibel (dB(A)) value measured at a given measurement point, which may be located at a residential building or any other receiving property.

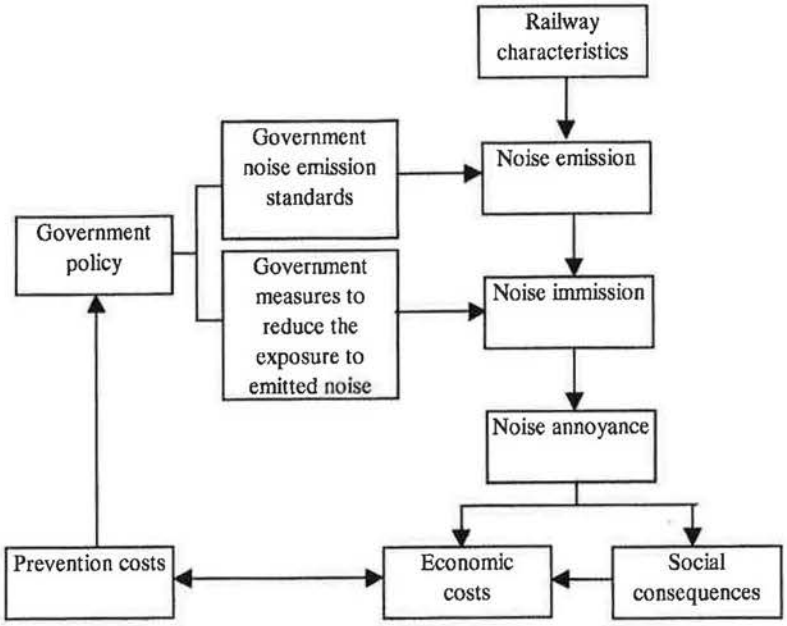

Fig. 1. The railway noice chain system.

3. Government policy: emission standards

Government policy on noise annoyance is primarily directed along two lines of measures. First, governments can use regulation of noise emission and immission standards and limit values. This includes regulation of noise measurement and methods. Second, governments can use direct policy measures to reduce noise emission and immission and provide incentives to private agents, such as railway operators and residential developers, to apply such measures. An example is the construction of noise control barriers. Direct noise reduction measures are discussed in Section 5. In this section we will shortly describe government policy on noise emission standards and limit values.

Legislation of noise annoyance offer governments various possibilities to reduce noise emissions and immissions. These include, restrictions of noise emission from rail vehicles; restrictions of the temporal distribution of railway traffic; restrictive conditions with respect to the construction of the railway infrastructure; establishment of a zone regulation system similar to the one used for highways. Zone regulation creates a zone along every railway line. The width varies from 100 to 500 m, depending on traffic density. Within such a zone, limit values vary from say 50 dB during nighttime to say 60 during daytime for residential buildings. Different limit values may apply to, for example, hospitals and schools and business premises (Table 1 for Netherlands). These limit values are relatively easy to impose when constructing new railway lines or buildings. In the case of existing urban areas and railway lines, additional measures related to vehicles and infrastructure are needed. Note that in many countries the simultaneous development of urban areas and of railway networks in the 19th century has led to situations with high noise levels near to existing buildings.

Table 1
Noise limit values for different building types in The Netherlands[a]

Building type	24 h	Day	Evening	Night
Noise sensitive buildings (schools, hospitals)	55	55	50	45
Residential buildings	57	57	55	50
Office buildings	65	65	60	55

Source: Lawaaibeheersing. Handboek voor Milieubeheer, 2001.
[a] The day limit value applies from 7 am to 7 pm. The evening limit value applies from 7 pm to 11 pm. The night limit value applies from 11 pm to 7 pm. The 24 h limit value is the highest value of the day limit value, the evening limit value increased with 5 dB(A) and the night limit value increased with 10 dB(A).

4. Noise emission and dispersion

There is a close, but complex, relationship between the emission and the immission level of noise. Together they form an important component in the railway noise chain system. They also provide an opportunity for the government to reduce noise annoyance by reducing the noise emission and noise immission levels.

4.1. Noise emission sources and reduction measures

Rail system characteristics such as traffic density, frequency, speed, train type and rail-infrastructural characteristics initially determine noise emission. Specific noise emission sources can be categorized into: rolling noise from vehicles on straight rails without discontinuities; bumping noise from discontinuities on wheels or rails such as crossroads and junctures; curving noise from vehicles passing through a curve; noise generated by diesel engines; aerodynamic noise caused by turbulence due to disturbing elements in the air flow along the train; other sources such as braking, railway maintenance, station noises or crossroads warning signs. Fig. 2 shows that there

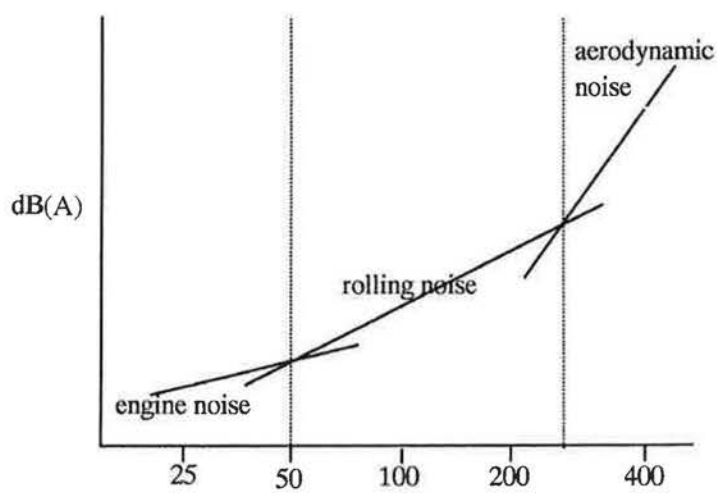

Fig. 2. Noise level of different noise sources at different train speeds.

is a positive relationship between the train's speed and the noise emission level, and how at different speeds different sources of noise dominate. When stationary and at speeds below 50 km/h engine noises are the predominant noise source of a train. At speeds between 50 and 300 km/h rolling noise becomes the most important noise source, while at speeds above 300 km/h the rolling noise is increasingly dominated by aerodynamic noise.

Train speed usually varies from 50 to 300 km/h, so it follows that rolling noise—and to a lesser degree engine noise—causes the most noise annoyance. Noise emission reduction should then mainly focus on providing for smooth, flat rails and wheels, by e.g. more frequent filing of the rail and replacement of the current block brakes by more wheel-friendly brakes. Rolling noise can also be reduced by the construction of small noise screens on the vehicle or rails.

Measures to reduce the emission of curving noise are the construction of sufficiently wide curves, guidable wheels and lubrication of specific parts of the wheel. Using adequate muffling of the exhaust conduit and a proper positioning and embedding of the engine can reduce noise generated by diesel engines. Braking noise can be primarily reduced through an appropriate choice of material.

4.2. Noise dispersion

The dispersion of sound from an emission point is easily computed under normal conditions. The noise level, measured as the sonic pressure, for any given point location can be expressed as a logarithmic function of the noise level at the noise source and the distance between the points. The noise level approximately declines by 6 dB as the distance is doubled. For a line source the decline is about 3 dB (Lawaaibeheersing. Handboek voor Milieubeheer, 2001). A railroad track with relatively little traffic is in fact a number of point sources and not a line source. The noise level as a function of distance lies somewhere between that of a point source and a line source.

This simple relationship between noise emission and immission is disturbed by several complicating factors such as: the geometry of the area; the nature of the terrain; meteorological conditions; other noise sources and sound barriers. Artificial sound barriers can be used to reduce noise immission values for given emission values. Sound barriers are particularly effective since rolling noise is generated at a very low surface level.

5. Annoyance from railway noise

Although in most developed countries the population annoyed by railway traffic noise is considerably smaller than that annoyed by road traffic or aviation, it is an important issue. A pilot study by Rademaker et al. (1996) showed that 3.2% of the population in The Netherlands suffers from railway traffic noise annoyance, of which 1.3% suffers from serious noise annoyance. A questionnaire by the Organization for Applied Scientific Research in The Netherlands Miedema (1993) estimated the population suffering from such noise annoyance at approximately 6% of which approximately 1% suffer from serious noise annoyance.

Table 2 shows the percentage of the population in The Netherlands suffering from noise annoyance caused by various transport modes and noise levels according to an INFRAS/IWW

Table 2
Noise annoyance in The Netherlands caused by different transport modes

Noise source	55–60 dB	60–65 dB	65–70 dB	70–75 dB	>75 dB	Total
Road	34.0	16.0	2.7	1.0	0.3	54.0
Rail	4.5	0.9	0.3	0.2	0.13	5.6
Aviation	21.0	12.0	2.0	0.7	0.3	33.8

Source: INFRAS/IWW, 2000.

study (2000). According to this table a total 5.6% of the population suffers from railway noise; for road traffic or aviation noise this percentage is much higher. This table also shows that the noise annoyance percentage increases as the noise level increases. Another interesting result in this table is the fact that the relative importance of railway traffic versus that of road and aviation transport increases as the noise level increases. This indicates that at higher decibel levels railway traffic more likely causes noise annoyance than other transport modes. Also, the fact that residential areas are relatively dense around railway tracks explains the relatively large increase of annoyance as a result of higher noise levels. Residential construction tends to be high near railway stations and in highly urbanized parts of The Netherlands also zones near railway tracks further away from stations are intensively used for residential construction due to lack of space.

Fig. 3, based on data from a study by Aubree (1975), shows the degree of annoyance for various noise levels. It clearly shows that the number of seriously annoyed people increases as the noise level increases.

The effect of habituation to railway noise on the degree of annoyance was investigated in a Dutch study (Dongen et al., 1982). This study compares the annoyance percentages caused by a newly operational railroad line at two different moments; three and 21 months after the line became operational. We used data from this study to do an ordered probit analysis on the effects of the habituation to noise on the degree of noise annoyance, controlling for noise level. [3] The results in Table 3 show that as people get accustomed to railway noise exposure, the degree of annoyance appears to decrease. The coefficient for noise level shows that there is a positive and significant relationship between noise level and the degree of noise annoyance. This is in accordance with the results from Fig. 2.

Table 4 shows the results of an ordered probit analysis based on data from the same study [4] on the effect of the usage of a train on perceived annoyance, again controlling for noise level. The results show that the group of people that uses the railroad track generally exhibit a lower degree of annoyance than the non-user group. The coefficient of the noise level is again positive.

Further research (Peeters et al., 1982) shows that compared to road traffic noise, rail traffic noise is more annoying when listening to television or radio or during conversations and when

[3] The degree of annoyance consists of four categories: not aware of the noise, not annoyed, annoyed and seriously annoyed. Noise level is a continuous variable, measured in dB(A). Habituation is measured by means of a dummy which has value 0 for observations shortly after the opening of the line and value $1\frac{1}{2}$ years later.

[4] The degree of annoyance and the noise level are measured in the same way as in the previously mentioned probit model. The usage dummy has value 1 if a person uses the railroad line for transportation purposes and value 0 if he or she does not use the railroad line.

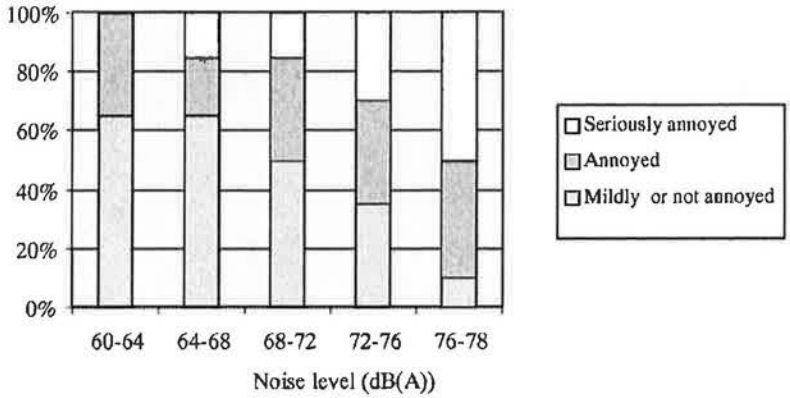

Fig. 3. Degree of annoyance due to noise level.

Table 3
Ordered probit model estimates of the effects of habituation to noise on the degree of annoyance

	Coefficient	T-value
dB(A)	0.186	8.664
Habituation to noise	−0.368	−2.446

Source: Own estimates based on micro data in Dongen et al. (1982).

Table 4
Ordered probit model estimates of the effects train usage on the degree of annoyance

	Coefficient	T-value
dB(A)	0.412	3.822
Usage dummy	−1.745	−3.342

Source: Own estimates based on micro data in Dongen et al. (1982).

performing tasks that demand concentration. Rail traffic noise causes less general, non-specific annoyance. The most annoying elements of railway traffic are freight trains, work on the line, and signalling. Further research results are that the orientation of the house with respect to the railroad track, parallel or perpendicular, and the layout of the house are important for the annoyance one experiences. Quality of the facade insulation has no demonstrable influence. Non-auditive annoyance as risk in connection with children, pollution, obstruction, and disturbance of the television picture are more prominent with people who are little exposed to railway noise. Individual differences in experiencing railway traffic noise are large. These differences in annoyance for a given noise level can be explained partly by the following factors: attitude towards the railway as an environmental element, view on the railroad track from the living-room, sensitivity to noise, annoyance experienced from other noise sources and satisfaction with the quality of the house.

6. The economic valuation of railway noise

6.1. Introduction

The fact that noise annoyance caused by railway traffic is small compared to road traffic and aviation is also reflected in the costs of noise annoyance. Table 5, based on data from a study by INFRAS/IWW (2000), shows the annual costs of noise per transport mode for a set of 17 European countries. The total costs of noise sum up to 0.65% of the total GDP in these 17 countries. The share of the costs from rail noise is 5.3% of the total noise costs. This is consistent with the data in Table 2 where the share of rail noise annoyance was 5.6% of total noise annoyance. The share of costs from rail noise varies among countries from 0.5% in Norway to 17.5% in Switzerland.

There are various methods to evaluate the costs of noise annoyance. A distinction is made between direct and indirect damage costs and prevention costs. [5] The goal of prevention is to reduce the damage costs, which increase more than proportionally as noise pollution increases. Prevention costs are more effective at higher noise pollution levels. An increase in prevention costs reduces the total amount of noise pollution, which in turn reduces the damage costs. Prevention measures are feasible as long as the marginal costs of prevention measures are lower than the marginal benefit (i.e. the marginal decrease in damage costs). Table 6 shows an overview of economic cost categories of noise pollution from rail transport.

In noise valuation studies direct damage costs are typically estimated by using hedonic pricing or contingent valuation methods. Indirect damage costs can be approximated by estimating the resulting productivity loss.

6.2. Indirect costs

Medical costs refer to physical as well as psychiatric medical treatment. Treatment related to hearing problems caused by noise pollution but also psychiatric treatment are examples of medical costs induced by noise pollution. Exposure of school buildings, medical premises and for residential areas to noise can affect the human capital stock, and indirectly the economy.

6.3. Direct costs: property value as a proxy

Direct costs of noise include the reduction of well-being. Although this reduction is hard to evaluate directly, and individually, in monetary terms, it changes economic behavior. Economic costs of the reduction can be estimated indirectly by looking at economic behavior.

A straightforward choice would be to use the hedonic pricing method. Differences in property values due to noise annoyance are observed, and it is tested whether property prices decrease as noise immission levels increase. [6] Naturally, the amount of rail traffic per hour, the precise dis-

[5] In this paper "prevention costs" refers to both abatement costs and avoidance costs.

[6] A positive relation between noise level and noise annoyance is assumed.

Table 5
Annual noise costs in million dollars for a set of 17 European countries

	Road	Rail		Aviation	Total costs	Total share of GDP
		Passenger	Freight			
EUR 17	39492	1028	1393	3343	45256	0.65%
Share	87.3%	2.3%	3.1%	7.4%		

Source: INFRAS/IWW, 1994.

Table 6
Categories of economic costs of noise pollution from rail transport

Damage costs		Prevention costs
Direct	Indirect	
Reduction of "well-being" (partly reflected by property value decline)	Medical costs Loss of productivity	Reduction of rail related noise emission Reduction of vehicle related noise emission Reduction of the immision of noise Reduction of the annoyance about immitted noise

tance between the receiving property and the railroad track, prevailing wind conditions and the presence of noise barriers are all factors all affect the exact noise immission level and thus are reflected by property prices. The results of hedonic price studies are often summarized by a noise depreciation sensitivity index (NDSI). For example, an NDSI of 0.4% at a threshold value of 55 dB means that the percentual depreciation of property value can be expressed in terms of noise immission as: [immission value − 55 dB]0.4%. A drawback of this method is that buildings do not only differ in terms of noise immission, but in numerous other aspects as well. Even in an ideal situation with identical buildings, noise immission values often correlate with factors such as distance to public transport possibilities, number of cars in the neighborhood, etc.

The hedonic pricing method based on NDSI values has been used frequently in the context of airport noise evaluation and road transport noise evaluation but in the context of railway noise it has not yet been used. Cost-benefit analyses of railroad noise prevention measures sometimes use NDSI input values that are found in hedonic pricing studies on other noise sources, mostly road transport and aviation. These NDSI values vary between 0.2% and 1.3% (Schipper, 1999) depending on the source. In some studies on aviation noise even values of 3.5% are mentioned.

Not all studies that use a hedonic price method use an NDSI method to identify the relationship between noise level and property value. Such a relationship can also be identified indirectly through observing the differences in property values due to railroad proximity. The result can then in a similar way be summarized as a proximity depreciation sensitivity index (PDSI). The idea is that as the distance from the railroad track increases, the level of the noise from the railroad will decrease and hence the property value depreciation will decrease. The drawbacks of NDSI studies also apply to PDSI studies. A specific disadvantage of the PDSI is that it does not take into account travel intensities or actual noise levels. Additionally, results between NDSI and PDSI studies can show

Table 7
The relationship between residential property value and railway proximity

Data set	Price elasticity	T-value	Number of observations
All data	0.059	2.87	2152
Distance less than 200 m	0.04	0.93	623
Distance less than 100 m	0.102	2.09	305

Source: Strand and Vagnes, 2001.

variation because of the fact that the relationship between the distance to railroad track and noise level is not linear and is, moreover, disturbed by several complicating factors.

Strand and Vagnes (2001) use a log-linear multiple regression function to estimate a PDSI value based on selling prices, controlling for factors such as the net size and the age of the residential unit. They generally find positive relationships between the distance to a railroad track and the price of a residential building. As Table 7 shows, the coefficient for distance for the complete data set is positive and significant. The elasticity (PDSI) is 0.059. Table 7 also shows that for distances below 100 m, the elasticity is much larger.

A related, but less frequently used method to value noise annoyance is the contingent valuation method. Contingent valuation is based on the stated rather preference, or willingness to pay, than on revealed preference (actual behavior). The advantage of this method is that it can be applied to situations without free price formation. Also, the contingent valuation method may identify higher values that are most probably closer to the consumer surplus loss, which is not revealed by the hedonic price method (Feitelson, 1989). A disadvantage of the contingent valuation method is that the results may be biased because only intentions are measured. Table 8, from a study by Weinberger et al. (1991) shows the monthly willingness to pay for noise reductions for different levels of actual noise exposure. As expected, the willingness to pay is higher for larger noise reductions. The pattern illustrated in Table 7 is consistent with a downward sloping demand curve for silence.

This study shows another disadvantage of using contingent valuation method. The use of questionnaires necessitates to distinguish categories instead of unambiguous decibel data when formulating questions. This leads to subjectivity. [7] Also, compared to the hedonic price method the categorical approach results in a loss of informational value of the results.

6.4. Prevention costs

Prevention costs can be classified according to three different types of prevention measures: reduction of noise emission, reduction of noise immission and reduction of noise annoyance (Table 6). Examples of prevention costs are costs related to the placement of noise control barriers, costs related to vehicle noise control, renovation costs and costs related to building relocation. Economically, only in a situation where prevention costs are lower than damage costs, preventive measures should be carried out—or at least carried out up to the point where the

[7] Interviews can be complemented with audio support to present noise levels in an objective way.

Table 8
The monthly willingness to pay for noise reduction

Actual noise level (during daytime)	60–65 dB(A)	65–75 dB(A)
Willingness to pay for 'no noise'	\$24.7	\$28.9
Willingness to pay for 'little noise'	\$10.8	\$24.7

Source: UBA, 1991.

marginal costs of prevention become higher than the marginal damage costs. However, political interests sometimes interfere with economic principles. For example, government expenditures on prevention can be necessary to comply with noise emission standards, which may not be necessary from an economic point of view.

Economic valuation of noise annoyance requires that the consequences be expressed in monetary terms. Quite often noise annoyance can only be valued indirectly, for example, by using prevention costs as a proxy. A drawback of this method is that cost calculation heavily depends on the noise limit values instituted by the government. The data in Table 9, from a study by Weinberger et al. (1991) clearly shows this. A lower, stricter, limit value results in a higher number of 'overexposed' persons. This leads to higher abatement costs to comply with the limit values.

A somewhat different approach is taken in a study by Tyssen (1982) on the consequences of different limit values for railway noise for existing housing construction plans. The calculations were repeated on the premise that protective noise barriers would be constructed, and the costs of such barriers were estimated. Table 10 shows the results of this study. In a situation where less stringent limit values apply, the number of planned residential units that require additional noise

Table 9
Costs of noise screens for various limit values

Limit value (day/night)	Number of persons 'overexposed'	Total costs in billion \$	Costs per person per year
70/60 dB(A)	1,950,000	3.04	\$80.2
75/65 dB(A)	670,000	1.27	\$98.0

Source: UBI, 1991.

Table 10
Prevention costs of different noise limit values

Limit value	Number of residential units that require noise reduction measures	Costs of screens (× 1 million \$)	Costs per residential unit
60 dB(A) overall	9465	14.5	1532
60/65 dB(A) combination	6575	11.3	1718
65 dB(A) overall	5530	9.3	1670
65/70 dB(A) combination	240	55.0	2089
70 dB(A) overall	1910	4.2	2200

Source: Tyssen, 1982.

measures is lower. Hence, the total costs of the noise barriers needed to build these planned units is lower. From these results, an implicit economic valuation of noise may be derived. A noise limit of 60 dB is, at 14.5 million dollar, more than three times as expensive to sustain as a limit of 70 dB, which only costs 4.2 million dollar. Obviously, having reached a noise level of 70 dB it will cost 11.3 million dollar to decrease the noise level with an additional 10 dB. In other words, when a noise limit value of 60 dB applies, an increase in the noise level from 60 to 70 dB leads to an implicit noise prevention cost of 11.3 million dollar, or about 1.1 million per dB(A).

An interesting observation that follows from the last column in Table 10 is that the cost effectiveness of the construction of noise barriers is higher in situations where more stringent limit values apply. This observation is also consistent with the result in Table 9. the reason is that the number of buildings that are planned but cannot be constructed without noise barriers is higher in situations with more stringent limit values.

Oertli and Wassmer (1996) looking at the cost-effectiveness of noise barriers on a specific railroad segment take a somewhat different approach. They assume a fixed budget and calculate a cost-benefit index for four different scenario's, in which they look at the decrease in dB(A) and the number of people that actually benefit from the noise barriers. They calculate the cost-benefit index (CBI) as:

$$\mathrm{CBI} = \frac{\text{yearly costs}}{N[\mathrm{dB(old)} - \mathrm{dB(new)}]}$$

The CBI's, which can be interpreted as the cost per dB(A) reduction per person, calculated for the four different scenario's range from \$17 to \$142. In a similar way as the results in Table 10 these indices can be interpreted as economic valuations of noise prevention.

In this section a number of studies were discussed to illustrate the different methods used in the literature to evaluate the costs of railroad noise. Most of the literature on noise evaluation focuses either on prevention costs or on damage costs. The studies that focus on prevention costs, usually government research, typically report costs for various limit values, or individual costs and noise reduction for a variety of measures (KPMG, 2000) without paying attention to the benefits by valuating the noise reduction. Even studies that do compare prevention costs and damage cost reduction in the form of a cost-benefit analysis usually valuate the noise reduction with an NDSI value found in other research on noise valuation, usually non-rail based (Nijland et al., 2001). As such, theoretical insights (e.g. marginal cost- and benefit behaviour) have not yet been properly applied to empirical research and project evaluation within the field of rail noise.

7. Conclusions

The economic valuation of rail transport is economic valuation is very limited. This is primarily because compared to road and aviation transport, noise pollution of rail transport is seen as less importance. Of 17 European countries, the share of rail noise costs in total noise costs ranges from 0.5% to 17.5%, with an average share of 5.4%. A noise chain system can be identified that leads from rail system characteristics, such as frequency, speed and railroad condition, via noise emission and immission to noise annoyance, and ultimately results in the economic costs of noise.

Several factors are identified that influence such causal relationships. The relationship between noise emission and immission is disturbed by complicating factors such as weather conditions, distance between the railroad track and the immission point and natural and artificial barriers. As expected, the decibel immission level is positively related to the degree of annoyance from railroad noise. Furthermore, the degree of habituation to railroad noise is negatively affects the degree of annoyance. The fact whether or not people make use of a specific railroad track also has an effect on their noise experience. Users exhibit a lower degree of annoyance than non-users.

An important aspect of economic valuation of noise is the interaction between prevention costs and direct damage costs of noise pollution. Noise prevention policy can be aimed at several components of the railroad noise chain (e.g., emission and immission reduction). The inclusion of the government as a system component in the noise chain generates a feedback loop between the economic costs and the intermediate components of the noise value chain, so that the noise value chain becomes a closed system.

Government policy in this respect is often based on cost-benefit studies that analyze the trade-off mechanisms between direct costs and prevention costs. Cost-benefit studies on railroad noise policy generally use NDSI values from hedonic pricing studies on noise valuation of road transport and aviation transport as input values. The implicit assumption of transferability of such index values is not completely accurate, though. Noise is a complex multi-faceted phenomenon. The social and economic consequences of noise pollution do not just depend on the noise level (which is hard enough to measure accurately itself), but also on noise characteristics such as the type of noise, frequency, temporal distribution and subjective characteristics including attitude, habituation, activity pattern. These factors complicate the easy transfer of NDSI values between cost-benefit studies on different transport modes. Even in the case of studies on the same mode, such value transfer should be undertaken with caution. We found only one study where a depreciation sensitivity index value is estimated based on railroad data. This study (Strand and Vagnes, 2001) used proximity to a railroad instead of noise level as the independent variable. In this study a price elasticity of proximity with value 0.06 is found. We also found some studies that investigate the prevention costs associated with different limit values. In both of these studies the level of total costs is higher for lower limit values. However, the cost per person or per residential unit is lower for lower limit values.

A statistical comparative analysis on the economic valuation of rail noise proved difficult due to the fact that the number of studies we found on this subject is limited and the methods used for economic valuation in the underlying studies show considerable heterogeneity (Appendix A). A more extensive and homogeneous set of case-studies is required to successfully apply meta-analytical methods in order to uncover useful information from the existing literature on the economic evaluation of noise pollution from rail transport. Several other directions for future research come to mind. One is the need for a comparative contingent valuation and hedonic price study. A second is the need for comparative cross-section research, for instance in Europe. Such research would be particularly interesting as the same line and same train goes through cities in different countries. Thus it can be questioned whether the same train on the same rail causes the same level of annoyance in different countries. Further, it can also be tested whether in such a set-up the same level of annoyance leads to the same level of damage value, controlled for differences in the environment.

Appendix A. Overview of studies on the economic valuation of railway noise

Study	Year	Effect size type	Effect size estimations	Evaluation method	Prevention measure	Location	Within-study variation
Strand and Vagnes	2001	Property value elasticity of distance	0.102–0.059	Hedonic pricing	NA	Norway	Proximity circles
Ellwanger	1987	Total costs of noise in Germany per 1000 passenger kilometers	$0.82	Hedonic pricing	NA	Germany	Passenger transport versus freight transport
INFRAS/ IWW	1995	Costs of noise annoyance per annoyed person for a given decibel level per year	$56 (55–60 dB) $224 (60–65 dB) $560 (65–70 dB) $1118 (70–75 dB) $2114 (>75 dB)	Hedonic pricing	NA	Sweden	Noise level ranges
van Kempen	2001	Total property value depreciation due to noise in The Netherlands for a given decibel level range	$652.1 mln (56–60 dB) $781.5 mln (61–65 dB) $535.28 mln (66–70 dB) $289 mln (71–75 dB) $133.1 mln (76–80 dB) $40.5 mln (>80 dB)	Hedonic pricing	NA	The Netherlands	Noise level ranges
		Total property value depreciation due to noise in The Netherlands for a given decibel level range	$637.5 mln (56–60 dB) $764.1 mln (61–65 dB) $535.28 mln (66–70 dB) $291.7 mln (71–75 dB) $130.3 mln (76–80 dB) $39.2 mln (>80 dB)	Contingent valuation	NA	The Netherlands	Noise level ranges

Weinberger et al.	1991	Willingness to pay per person per month for a given noise reduction	$10.83 (60–65 dB to 'little noise') $24.67 (60–65 dB to 'no noise') $24.67 (65–75 dB to 'little noise') $28.88 (65–75 dB to 'no noise')	Contingent valuation	NA	Germany	Actual noise level and 'proposed' level
Oertli and Wassmer	1995	Costs per decibel reduction per inhabitant per year	$17–142	Abatement costs	Noise barriers	Switzerland	Different scenario's
Tyssen	1982	Direct costs per residential unit to comply with a given limit value	$1532 (60 dB) $1718 (60/65 dB) $1670 (65 dB) $2089 (65/70 dB) $2200 (70 dB)	Abatement costs	Noise barriers	The Netherlands	Different limit values of noise levels
Weinberger et al.	1991	Costs per person per year to comply with a given limit value	$98.0 (75/65 dB) $80.2 (70/60 dB)	Abatement costs	Noise barriers	Germany	Different limit values of noise levels
KPMG-BEA	1998	Costs per decibel reduction	Various noise source related cost drivers	Abatement costs	Various noise source related measures	The Netherlands	Prevention measures and train type

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features

The Effect of Freight Railroad Tracks and Train Activity on Residential Property Values

by Robert A. Simons, PhD, and Abdellaziz El Jaouhari, PhD

abstract

This study evaluates the impact of freight railroad tracks on housing markets. A hedonic price model is used to estimate reduction in the sale price of residential properties near freight railroad tracks in Cuyahoga County, Ohio for 1996 and 1999. The findings indicate an average loss in value between $3,800 and $5,800 (5%–7%) for houses under 1,250 square feet located within 750 feet from a railroad track. Larger houses showed mixed results. After substantial publicity about a freight train company merger, freight trip counts showed a negative and statistically significant impact on the sale price of smaller houses, and some larger houses, for each additional daily freight train trip.

The benefits of transportation in linking markets and generating positive externalities are well established in economic theory. Access to transportation links, such as highway interchanges, airport hubs, train stations, and boat landings, is a positive factor. However, being too close to transportation uses that are far away from access links can have a negative effect on property values due to the nuisance and potential problems of accidents. This is particularly true for railroads that crisscross the country carrying freight and have very few access points. For freight railroads, the access points are not directly used by residential property owners. In addition, there is train noise and whistle blowing as the trains pass by, the fear of accidents exists, and potential for other related nuisances. The main questions addressed by the research here are how much markets discount houses near railroad tracks and whether the discount decreases with distance from the track and less freight trip volume.

Variables Related to Railroad Freight Lines

Periodically, train companies merge and consolidate track activity; sometimes this can lead to changes in trip volumes on specific segments. Because proximity to train tracks is considered a nuisance, nearby property values can be affected. The effect could be related solely to proximity or to the volume of activity (e.g., freight train cars passing by the property). Effects may also be more pronounced on properties adjacent to where the freight lines cross streets. Also, if trip counts change due to rerouting, would there be any differential effect on property values? This study finds that rail traffic, as opposed to simply proximity to tracks, makes a difference in the sale price of residential properties. Further, publicity is found to increase public awareness of this issue.

In the Cleveland, Ohio area in the mid- to late-1990s, CSX Corporation (CSX) and Norfolk Southern Corporation (Norfolk Southern) decided to reorganize and acquire another railroad, Consolidated Rail Corporation (Conrail). An environmental impact statement (EIS) was done to determine track

reconfiguration. Freight trip counts on various segments were scheduled to change. Beginning in 1997, there was a lot of publicity regarding the reconfiguration, and the railroad lines negotiated with various cities about the impacts of the train reconfiguration on property values. Cities received millions of dollars, but none of the money went toward property damage awards. By 1999, the EIS process had been completed and changes to track volumes had been implemented.

This study examines the "before" and "after" of the reconfiguration in freight railroads in Cuyahoga County, Ohio, and comments on the inclusion of property damage awards in a process of this type. The study focuses on the effect of freight-carrying railroad tracks on single-family housing in Cuyahoga County, Ohio, which includes a total of 15 rail segments with over 50 miles of track. After a review of the extant literature, this article discusses the study area, data collection, and variables. Size-stratified hedonic regression models of the county residential real estate market are developed, and the proximity to railroad tracks is tested in various forms. The results are presented, as well as conclusions and implications for appraisers.

Overview and Literature Review

This study was inspired, in part, by a project done in a graduate urban planning class on the factors affecting the desirability of an urban neighborhood. A questionnaire was administered in person to 105 prospective homebuyers of inner-city homes on the near-west side of Cleveland, Ohio, during the summer of 2000. The questions mainly related to neighborhood characteristics that could have a positive or a negative effect on housing values. Residents were asked to weigh their willingness to live close to various urban factors (e.g., an auto junkyard, interstate, railroad tracks, city park) on a seven-point scale, where -3 was strongly negative and +3 was very desirable. The results of the questionnaire are shown in Table 1.

The least desirable site characteristics were junkyard (-2.81), leaking underground storage tank (LUST) (-2.71), and factory (-2.60). Living next to a train track had the next most negative score of -2.07, closely followed by proximity to a highway and main street (both about -1.9). Scores ranged up to +2.2 for lake views.[1]

Table 1 Survey of Prospective Homebuyers in Cleveland, Ohio: Urban Disamenities and Amenities

Site Characteristics	Scale of the Results
Next to an auto junkyard	-2.810
Next to a gas station with a tank leaking petroleum	-2.709
Next to a factory	-2.600
Next to a train track with about 15 trains per day	-2.067
Next to an interstate highway	-1.990
On a main 4-lane street	-1.933
Has no basement	-1.598
On a former brownfield; cleaned to state risk-based standards	-1.231
Next to a retail complex	-1.019
Next to a grade school	-0.567
Ohio City, south of Lorain Avenue	-0.388
Next to a new cemetery	-0.320
On a former brownfield; cleaned "clean enough to eat the dirt"	-0.192
Next to a secure and historic water tower park	-0.019
Has affordable housing mixed in	0.010
Next to old cemetery with trees	0.590
Next to a city park	0.683
View of downtown skyline	1.733
View of Lake Erie	2.229

$n = 105$

Effects of Other Linear Urban Uses on Residential Property

Roads are a linear land use similar in some ways to railroad tracks. Hughes and Sirmans found a significant 1% negative change in residential property values for each 1,000 annual average daily traffic (AADT) in city areas, and a 0.5% change per 1,000 AADT in suburban areas in Baton Rouge, Louisiana.[2] A related study by the same authors showed an 11% decrease in value for houses on high traffic streets, compared with low traffic streets.[3] However, this study did not explicitly control for street design. This same research also showed an average reduction of 0.8% in property values per 1,000 AADT.[4] For a typical collector street with 5,000 to 10,000 more trip counts per day than a purely residential street, this would equate to a 5%–10% reduction in property values, holding all else constant.

1. Some of these items have been empirically tested. Leaking underground storage tanks, for example, have been linked to a 13%–17% reduction in residential property value in the same Cuyahoga County, Ohio area. See Robert A. Simons, William Bowen, and Arthur Sementelli, "The Effect of Underground Storage Tanks on Residential Property Values in Cuyhoga County, Ohio," *Journal of Real Estate Research* 14, no. 1/2 (1997): 29–42. Because this score was worse than for the railroad tracks, the expected result should be less than this amount.
2. William T. Hughes Jr. and C.F. Sirmans, "Traffic Externalities and Single-Family House Prices," *Journal of Regional Science* 32, no. 4 (1992): 487–500.
3. William T. Hughes Jr. and C.F. Sirmans, "Adjusting House Prices for Intra-Neighborhood Traffic Differences," *The Appraisal Journal* (October 1993): 533–538.
4. Ibid.

Another linear and visible type of land use that is somewhat similar to railroad tracks is high-voltage overhead electrical transmission lines (HVOTL). Studies by Colwell, and Kinnard and Dickey showed a significant reduction of 5%–8% in residential property values within a few hundred feet of the transmission lines.[5] Another use similar to trains in its linearity is pipelines. In a study of the effect of a pipeline rupture on non-contaminated residential property on the pipeline easement in Fairfax County, Virginia, Simons estimated that single-family housing experienced a loss in value of 4%–5% after the rupture.[6]

Rail Impact Studies

Noise, especially from train horns, is the primary negative externality generated by train traffic. A study by Rapoza, Rickley, and Raslear[7] found that residents living within 1,000 feet of a railroad track were severely annoyed by train horns.Consistent with this unsurprising finding, many communities have enacted regulations to ban the use of train horns especially during nighttime hours to reduce the interference of train noise with the comfort of local residents. However, numerous studies funded by the Federal Railroad Administration (FRA) have proven that banning train horns increases fatalities and that the bans are costly to both residents and railroad companies.[8]

The FRA's numerous studies on the impact of noise on communities have also evaluated the effectiveness of warning systems, specifically the wayside train horn at crossing sections. A study conducted by the U.S. Department of Transportation and the FRA indicated that the use of railroad horns in addition to wayside horns could reduce accidents by 69%. The same study surveyed actions taken by residents to reduce the interference of noise with their daily activities. While most residents, as reported by the study, would stop talking or close windows, 14% considered moving.[9]

Most studies measure the frequency and level of noise to assess their impact on residents or property values. Few studies have examined the effect of proximity to a railroad track in terms of distance. Clark used distance from a railroad track to measure loss in property values for the mostly rural districts of Middletown and Niles in Ohio.[10] The findings indicate property values decreased by 2.1% in Middletown and 2.8% in Niles for every additional rail line within a buffer of ¼ mile. The loss is even higher for properties located near a crossing section where the use of train horns is more frequent. Another study in Oslo, Norway, looked at the relationship between tracks and residential sale price, based on pure proximity. Residential sale price decreased by up to 7%–10% within 100 meters (about 330 feet) of a railroad track.[11] These results were derived from both hedonic modeling and a type of contingent valuation analysis done by real estate salespeople.

To summarize, the benefits of railroad transportation in connecting markets are well established in economic theory but there is still a tension between the need for safety and the need to reduce the level of annoyance generated by railroad activities. Based on previous train studies and the negative effect on property values from other similar urban land uses, property value decreases in the single digits are expected from trains and train traffic.

Railroad Merger in Cleveland

Railroads sometimes merge and consolidate. As previously noted, in Cleveland this began in 1997 as CSX and Norfolk Southern sought to combine operations, acquire Conrail, and streamline and consolidate track utilization in Cuyahoga County. The negotiations were accompanied by an environmental impact statement that examined reconfiguring lines and train volumes. Trip counts on various segments ranged from 0–75 trips per day before the

5. Peter Colwell, "Power Lines and Land Value," *Journal of Real Estate Research* 5, no. 1 (Spring 1990): 117-127; William Kinnard and Sue Ann Dickey, "A Primer on Proximity Impact Research: Residential Property Values Near High Voltage Overhead Transmission Lines," *Real Estate Issues* 20, no. 1 (1996): 23–29.

6. Robert. A Simons, "The Effect of Pipeline Ruptures on Noncontaminated Residential Easement-Holding in Property in Fairfax County," *The Appraisal Journal* (July 1999): 255–263.

7. Amanda S. Rapoza, Edward J. Rickley, and Thomas G. Raslear, "Railroad Horn Systems Research," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. DOT-VNTSC-FRA-98-2, 1998.

8. John P. Aurelius and Norman Korobow, "The Visibility and Audibility of Trains Approaching Rail-Highway Grade Crossings," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. FRA-RP-71-2, 1971 (available through National Technical Information Service, Springfield, VA); Amanda S. Keller and Edward J. Rickley, "The Safety of Highway-Railroad Grade Crossings: Study of the Acoustic Characteristics of Railroad Horn Systems," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. DOT/FRA/ORD-93/25, 1993.

9. Jordan Multer and Amanda Rapoza, "Field Evaluation of a Wayside Horn at a Highway-Railroad Grade Crossing," prepared for U.S. Department of Transportation, Federal Railroad Administration, Report No. DOT/FRA/ORD-98/04, 1998.

10. David E. Clark, "Ignoring Whistle Bans and Residential Property Values: A Hedonic Housing Price Analysis" (working paper).

11. Jon Strand and Mette Vagnes, "The Relationship Between Property Values and Railroad Proximity: A Study Based on Hedonic Prices and Real Estate Brokers' Appraisals," *Transportation* 28 (2001): 137–156.

merge, with 15–30 trains per day being typical. The reconfiguration was finalized and operational by 1998. As a result, some lines experienced substantial reductions in traffic (e.g., from 50 per day down to 5 per day), some increased (10 to 45 per day), while other segments remained the same.[12]

Beginning in 1997, there were many news reports regarding the impact of the merger, and the railroad lines negotiated with various cities about the impacts of the train reconfiguration on property values. Cities received considerable sums of money. For example, East Cleveland, with a population of about 33,000 in the year 2000, received $4 million; Cleveland, population 493,000, received over $20 million; and Lakewood, population 50,000, also received a multimillion-dollar award. These funds went toward noise mitigation and safety improvements; no monies were allocated to reductions in property values. By 1999, the EIS process had been completed and changes to track volumes had been implemented. This article examines the "before" (1996) and "after" (1999) of this decision in the Cuyahoga County, Ohio, residential resale market.

Model and Research Questions

The initial research question examines whether railroad tracks have the expected negative effect on nearby, single-family house prices. The second question examines whether the negative effect declines with distance from railroad tracks. It is expected that the loss in value of properties within 250 feet from the railroad tracks would be higher than the loss in value of properties located within 750 feet from the railroad tracks. If this holds true, it supports the notion of a gradient effect from the tracks. If there were negative effects but not decreasing with distance, then a zonal effect would be evident. Third, trip volumes (instead of pure proximity) are tested for their effect on sale prices, and whether this effect is stable over time when trip volumes change and the changes are publicly known. Proximity to railroad crossings, where noise and fear of accidents are expected to negatively impact sale prices, is also examined.

The hedonic regression model states that single-family housing sale price is a function of structural characteristics of the house, neighborhood characteristics, and its distance from railroad tracks. With respect to the model presented below, we expect β_3 (sale within several hundred feet of a freight line), β_4 (freight train traffic), and β_5 (gated railroad crossing) to be negative.

A reduced form of the hedonic model is used and is expressed as:

$$P = \beta_0 + \beta_1 S + \beta_2 Z + \beta_3 BUFF + \beta_4 TTRIPS + \beta_5 CROSSING + \varepsilon$$

where:

P = Sale price of the house
S = Vector for structural characteristics of the house
Z = Vector that consists of dummy variables for zip codes; a proxy for neighborhood characteristics
$BUFF$ = Dummy variables attached to properties located within 250, 500, and 750 feet from railroad tracks
$TTRIPS$ = Number of daily freight trains passing in both directions for the segment nearest each house within a railroad track's buffer
$CROSSING$ = Proximity to gated railroad crossing
ε = Error term

Because of potential market stratification issues, the data set is divided into three approximately equal parts based on building square footage. Parallel analyses are run for each market segment and compared.[13]

Study Area and Data Collection

The study area for this research is Cuyahoga County, Ohio; Cleveland is the main city in the county. The population of the city and county in the year 2000 was about 0.5 million and 1.6 million, respectively.

Data Collection

The data used for this research is from the Northern Ohio Data Information Service (NODIS) of the Maxine Goodman Levin College of Urban Affairs at Cleveland State University. House sale prices were obtained from Amerestate, Inc. data, based on county records, and were collected for all transactions that occurred during 1996 and 1999. The county data set included a set of variables related to the characteristics of the house and lot, similar to those included in standard hedonic price studies. Table 2 presents a description of the structural variables included in the hedonic model with descriptive statistics for year 1999. Overall, the typical house sold for $108,800, contained 1,600 square feet of living area, 1.6 garage spaces, and 1.5 bathrooms. It was 61 years old, had a basement of 800 square feet, and sat on a lot of 8,700 square feet. The mean values for the three sizes of units are detailed in Table 2. The data set was split into three parts based on square footage of the units: under 1,250 square feet; 1,251 to 1,700 square feet; and over 1,700 square feet.

The smaller units had an average size of 1,050 square feet, and a sale price of $81,000; the me-

12. Surface Transportation Board, Section of Environmental Analysis, Finance Docket No. 33388, Proposed Conrail Acquisition, 1998.

13. The authors would like to thank the reviewers for suggesting this analysis.

dium-sized units averaged 1,450 square feet and sold for $97,900; and the largest group averaged 2,200 square feet and sold for $138,500.

Dummy variables were also included for style and construction type. Only single-family residential units were included. Zip codes were employed to account for neighborhood characteristics and to capture the effect of distance from the central business district. A total of 38 dummy variables for the zip codes (with a minimal number of residential sales) were used. Because the zip code variables cannot be generalized, their results are of little interest and are not included (but are available upon request).

The data set contained over 33,000 house sale transactions that occurred in 1996 and 1999. The data cleaning process consisted of deleting all records that had data missing for the following variables: sale price, parcel number, zip code, building square footage, number of rooms, lot square footage, style and construction type specification, and age of the property.

Records clearly outside of a reasonable range that could be considered outliers were deleted. For sale price, only sales between $5,000 and $400,000 were retained for the analysis. Building square footage ranged from 500 square feet to 4,500 square feet. Properties with fewer than three rooms and those with more than 15 rooms were removed, as were properties with lot square footage of less than 2,000 square feet or more than 55,000 square feet. Finally, parcels with lot frontage of less than 20 feet or greater than 140 feet were excluded from consideration. The data set ended up with about 14,900 sales for the year 1996 and 17,800 sales for the year 1999.

Train Variables

Information on train activities was added to the real estate data set. A geographical information system (GIS) was used to link neighborhood and structure information to data on properties located within 250 feet, 500 feet, and 750 feet from railroad tracks. A buffer for the specified distance was created from both sides of the track to include only parcels located within that distance, allowing creation of the dummy variables BUFF250, BUFF500, and BUFF750. The number of annual sales of smaller-sized units, within the distance buffer was 92, 201, and 269, respectively, for BUFF250, BUFF500, and BUFF750. Variables were also created for average daily freight train traffic, based on the number of freight train trips in 1996 and 1999 for each of about 15 different rail segments within Cuyahoga County. Trip data was unavailable for a few freight lines, and these were treated with a dummy variable. We also included buffers of up to 750 feet for proximity to gated train crossings. Because a few freight segments also serve rapid transit, the models also controlled for proximity to rapid transit lines and transit stations.

Regression Diagnostics

The variance inflation factor (VIF) index was used to check for the multicollinearity problem in the larger data set. Some variables such as number of rooms and bedrooms, and lot depth and width had a high VIF and were discarded from the model. For other variables, the multicollinearity was not severe, but for some cases like the fireplace variable, it generated a coefficient with a sign that was not consistent with theory. It also was removed from the model.

Table 2 Descriptive Mean Statistics for 1999

Variable	Small Units Under 1,250 Sq. Ft.	Medium Units 1,251–1,700 Sq. Ft.	Large Units Over 1,700 Sq. Ft.
Sale price	$ 81,007	$ 97,851	$ 138,510
Building sq. ft.	1,049	1,454	2,205
Garage capacity	1.38	1.54	1.75
Number of baths	1.03	1.18	1.80
Basement sq. ft.	682	745	913
Lot front feet	46.80	50.14	59.01
Lot sq. ft.	6,591	7,500	9,707
Age in years	60.79	65.30	59.53
Valid sample size	6,068	5,804	5,917

$n = 17,789$

For heteroscedasticity, scatter plots of the dependent variable and model residuals were examined for fanning. None appeared to be present.

Empirical Findings

The initial models (not shown here due to space considerations) were prepared for the large data set.[14] The use of dollars per square foot ($/SF) as the dependent variable was investigated, but results were much less satisfactory than the linear form used in later runs.[15] Table 3 shows the results of the structural variables for 1999 along with train buffers, without freight train trip counts or crossings, for the size-stratified sales data. Overall, the models fit the data well for 1999. The independent variables included in the model explain 62% of the variation in the dependent variable for the smallest units, and 77% for the largest units. The *F*-statistics were 133 to 265, and significant at the 99% level or better. The signs of the coefficients are as expected for the structural variables and are consistent with the findings of previous research in the Cleveland area.[16]

The statistical significance, the sign, and the magnitude of the coefficient for structural variables are as expected and consistent with theory. For example, for the building square footage variable, every additional square foot will increase the sale price by $21 for the smaller units and by $35 for the largest units. Every additional year in the age of the house will decrease the sale price by $367 for the smallest units and by $678 for the largest units. Garage space adds $4,630 to $4,770, and a square foot of lot size adds $0.48 for smaller units and up to $1.86 for the largest ones. All these are significant at well over a 90% confidence level.[17]

The train variables (BUFF250, BUFF500, and BUFF750) are generally consistent with theory and had the right sign. However, statistical significance was only apparent at the 95% level for the units under 1,250 square feet. For this group the results show that for 1999, houses located within 250 feet of railroad tracks sold for $4,400 less than other houses in the reference category. The loss changed somewhat with distance from the tracks, and decreased to about $3,800 less for houses located 251–500 feet away. However, the loss then increased to $5,800 for houses within 501–750 feet of a railroad track. These losses average 5%–7% of the average sale price. Hence, the diminution in property values appears to flatten out because the results for sales within both 500 feet and 750 feet from a track (before consideration of trip counts) did not monotonically decrease. This suggests the markets perceive a zonal effect rather than a gradient effect for freight tracks.

For the medium-sized units, all zones had negative signs, but only the middle ring (251–500 feet away) was statistically significant at 95%. The magnitude of this discount was $4,700 (about 5%). The same negative signs were apparent for the larger units, but no results were significant, even at an 85% level of confidence. Hence, it cannot be said that freight train tracks had a statistically significant effect on these units.[18]

A variable was also inserted to reflect proximity to a rapid transit station (Station RTA 1000 Feet). For smaller units, proximity to a station yielded a positive value from $10,300 to $12,500 (13%–15%) that was statistically significant at a 99% level of confidence. This indicates a value premium among those most likely to use rapid transit. Among the medium units, signs were negative but statistically insignificant. Among the larger units, they were positive but only statistically significant at about an 85% level of confidence, and barely at that level.

Moving along to the "before" and "after" effects of the information about the reorganization of freight train traffic, recall that the changes were announced in about 1997, that 1996 represents the "before" sce-

14. As with Table 3, the large model was run with structural variables and only a buffer around freight train lines. Overall, the model fits the data well for 1999. The independent variables included in the model explain 76% of the variation in the dependent variable. The *F*-statistics were over 750 and significant at the 99% level. The sign of the coefficients is as expected for the structural variables and is consistent with the findings of previous research in the Cleveland area. Of the 54 nongeneralizable variables that were included in the model (38 zip codes and other dummy variables for style and construction), about 40% were statistically significant at the 90% confidence level.

15. We also reran the basic 1999 model with train distance buffers and all ring configurations with the dependent variable as $/building square foot. This means we eliminated building square foot from the right side of the model. The resulting models had a much lower *R* squared: .52 to .72 compared with .62 to .77 in the comparably configured models. The parameter estimates for smaller units were -$4.30, -$3.30, and -$5.20, all significant at a 95% confidence level. Other results mirrored the model with the dependent variable using sale price. When the revised results are transformed into sale price at the average square footage of 1,050, the resulting price drops are $3,500-$5,500, almost identical to those found in Table 3.

16. Simons, Bowen, and Sementelli.

17. A 1996 baseline model for the large data set with the same variables was also run. The *R* squared was 0.80, and the *F*-statistic was over 810. The variable parameter estimates were consistent with theory and with the 1999 results.

18. The results over space should in theory decrease monotonically, but this is not always observed in practice. One explanation is that there is model misspecification, and this may be partly the case here, as evidenced by the superior and more logical results obtained by the model shown later in Table 4b which uses freight trips, as opposed to pure distance, to gauge impacts. Alternatively, results could be attributable to influential outlier sales. Finally, it could be that nuisance from track activity has a zonal (in or out of an affected area) rather than gradient (decreasing over distance within an impact zone) effect on property values. We have ruled out insufficient observations and multicollinearity as potential sources of difficulty on this issue.

Table 3 Effect of Proximity to Railroad Tracks, 1999

Small units under 1,250 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	45,571.41	0.00	45,687.44	0.00	49,375.77	0.00
Bldg. sq. ft.	20.99	0.00	20.91	0.00	20.89	0.00
Garage capacity	4,630.00	0.00	4,649.48	0.00	4,594.30	0.00
Bath number	3,069.35	0.04	2,940.55	0.55	2,833.87	0.06
Basement sq. ft.	14.75	0.00	14.79	0.00	14.73	0.00
Lot frontage	0.19	0.00	0.19	0.00	0.19	0.00
Lot sq. ft.	0.48	0.00	0.47	0.00	0.48	0.00
Age of house	-366.58	0.00	-365.55	0.00	-366.68	0.00
Station RTA 1,000 ft.	10,576.51	0.01	10,291.85	0.01	12,495.16	0.00
BUFF250	-4,384.95	0.03				
BUFF500			-3,816.25	0.00		
BUFF750					-5,809.50	0.00
Adjusted *R* Square	0.62		0.62		0.62	
Degrees of freedom	5,992.00		5,992.00		5,992.00	
F-statistic	133.17		133.29		133.87	
Durbin-Watson	1.75		1.76		1.76	

Medium units 1,251 to 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	84,888.26	0.00	84,958.68	0.00	84,951.02	0.00
Bldg. sq. ft.	30.83	0.00	30.79	0.00	30.86	0.00
Garage capacity	4,762.51	0.00	4,727.63	0.00	4,768.08	0.00
Bath number	4,538.45	0.00	4,516.23	0.00	4,521.53	0.00
Basement sq. ft.	8.34	0.00	8.32	0.00	8.36	0.00
Lot frontage	0.15	0.00	0.15	0.00	0.15	0.00
Lot sq. ft.	0.70	0.00	0.70	0.00	0.70	0.00
Age of house	-498.98	0.00	-497.07	0.00	-498.93	0.00
Station RTA 1,000 ft.	-5,586.79	0.33	-4,570.52	0.43	-5,447.28	0.35
BUFF250	-2,840.92	0.35				
BUFF500			-4,661.28	0.02		
BUFF750					-385.71	0.82
Adjusted *R* Square	0.64		0.64		0.64	
Degrees of freedom	5,728.00		5,728.00		5,728.00	
F-statistic	135.95		136.10		135.92	
Durbin-Watson	1.56		1.56		1.56	

Large units over 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	48,814.89	0.00	48,616.56	0.00	48,818.87	0.00
Bldg. sq. ft.	35.42	0.00	35.49	0.00	35.42	0.00
Garage capacity	4,771.95	0.00	4,768.55	0.00	4,766.54	0.00
Bath number	16,216.11	0.00	16,209.55	0.00	16,198.56	0.00
Basement sq. ft.	10.13	0.00	10.12	0.00	10.11	0.00
Lot frontage	0.28	0.00	0.28	0.00	0.28	0.00
Lot sq. ft.	1.86	0.00	1.85	0.00	1.85	0.00
Age of house	-677.67	0.00	-676.75	0.00	-676.61	0.00
Station RTA 1,000 ft.	5,670.17	0.17	5,241.39	0.22	6,021.75	0.15
BUFF250	-4,735.30	0.24				
BUFF500			-882.21	0.76		
BUFF750					-3,385.17	0.17
Adjusted *R* Square	0.77		0.77		0.77	
Degrees of freedom	5,840.00		5,840.00		5,840.00	
F-statistic	265.42		265.34		265.45	
Durbin-Watson	1.51		1.51		1.51	

nario, and that 1999 represents "after" the information became known. Tables 4a and 4b present results for 1996 and 1999, respectively. These models were run with the same structural and zip code variables, but without the train buffers. The new train variables FREIGHT TRIP 250 FEET, FREIGHT TRIP 500 FEET, and FREIGHT TRIP 750 FEET are of particular interest and reflect the number of train trips per day on each segment. Other new train variables include CROSS250, CROSS500, and CROSS750, which indicate distance from a gated train crossing, and RTA1000, which indicates proximity to a rapid transit track (but not station) carrying a number of shorter train trips (2–5 cars).

With respect to the volume of daily freight train trips (FREIGHT TRIP 250 FEET), the 1996 and 1999 models showed quite different results, as expected by theory. For 1996 (Table 4a), only smaller- and medium-sized unit sales had the expected negative sign, and only one cell (smaller units, 501–750 feet away, with a parameter estimate of $80 loss per additional freight train trip) was statistically significant at a 90% or better level of confidence. One parameter estimate (largest units, 501–750 feet away) was positive and statistically significant.

For 1999 (Table 4b), however, after much publicity, the market was able to distinguish the effects of freight trips quite clearly. It was found that per average daily freight trip, sale prices of smaller units within 250 feet (TRIP250) went down by $194. Sale prices of units between 251-500 feet dropped by $85 and by $94 on units between 501-750 feet per average daily freight trip.

All results were statistically significant at a 95% or better level of confidence.[19] This generally reflects a gradient rather than zonal pattern.

For medium-sized units, it was found that per average daily freight trip, sale prices of units within 250 feet dropped by $262. Sale prices of units between 251-500 feet fell by $107 and by $72 on units between 501-750 feet.

All results were statistically significant at 85% or better level of confidence, and the closest result was significant at a 95% level of confidence. This demonstrates a gradient pattern of impact.

For larger-unit sales within 250 feet, a price reduction of $264 was evident, but it was only significant at an 85% level of confidence. Other results were not statistically significant. Thus, the results with freight train trips per day were improved in terms of statistical significance, especially for small- and medium-sized units.

These models also address the effects of gated railroad crossings (CROSS250, CROSS500, and CROSS750) with freight trip counts in the models. For 1996, proximity to a railroad crossing is negative and mostly significant only for the group of smaller units, where units 251–750 feet from a gated crossing experienced negative results of about 5%, holding all else constant. They were not significant for most other categories of units. For 1999, all the losses associated with gated train crossings evaporated, except for the largest units 501–750 feet from a gated crossing. Hence, the overall results for gated crossings were mixed.

Finally, these same models also had a variable if a sale was within 1000 feet of a rapid transit track without a transit station (RTA1000). For 1996, only medium-sized sales showed negative and significant losses for this variable (about 10% of sale price). For 1999, the significant and negative losses (about 5%) associated with RTA1000 were confined to the sales of the smallest units. Hence, the overall results for proximity to rapid transit tracks were also mixed.

Conclusion

The results generated by the hedonic models for 1996 and 1999 are consistent with previous results in the literature. The structural variables are generally of the expected sign. For railroad-related variables, smaller houses of up to 1,250 square feet and located within 250 feet, 500 feet, or 750 feet of a railroad track experienced a statistically significant loss in sale price of $4,300 within 250 feet, $3,800 within 500 feet, and $5,800 within 750 feet from a freight track line; this is equivalent to losses of 5%–7% of sale price. For the medium and larger units, many had negative signs, but only the middle ring (251–500 feet away) was statistically significant at a 95% confidence level, with a discount of about 5%. The lack of a consistent declining pattern implies that markets perceive a zonal rather than gradient effect for this negative amenity when modeled with pure proximity.

Proximity to a gated railroad crossing at grade was associated with a reduction in sale price of about 5% under some circumstances, but results were not robust over all subcategories of sales.

Results improved substantially when freight train trip counts, separate from simple proximity to a

19. A model with all rail variables with the larger data set of all sizes together was run, and the pure proximity buffers performed the most consistently. However, they also had the highest multicollinearity problems. Therefore, these results are considered not very reliable.

Table 4a Effect of Freight Train Trip Counts on Property Values, 1996

Small units under 1,250 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	**Sig.**	**Coefficients**	**Sig.**	**Coefficients**	**Sig.**
(Constant)	40,806.72	0.00	40,538.76	0.00	40,678.68	0.00
Building sq. ft.	19.45	0.00	19.52	0.00	19.46	0.00
Garage capacity	3,915.99	0.00	3,914.75	0.00	3,918.24	0.00
Bath number	1,948.19	0.19	2,004.96	0.17	2,158.74	0.14
Basement sq. ft.	13.16	0.00	13.15	0.00	12.99	0.00
Lot frontage	0.16	0.00	0.16	0.00	0.16	0.00
Lot sq. ft.	0.41	0.00	0.40	0.00	0.40	0.00
Age of house	-365.87	0.00	-363.15	0.00	-362.40	0.00
Station RTA 1,000 ft.	8,603.06	0.05	8,309.17	0.06	9,472.28	0.03
RTA track 1,000 ft.	-2,356.82	0.32	-1,588.63	0.53	262.67	0.92
Crossing 250 ft.	-2,265.19	0.62				
Freight trips 250 ft.	**-116.28**	**0.19**				
Crossing 500 ft.			-6,029.84	0.03		
Freight trips 500 ft.			**-39.63**	**0.20**		
Crossing 750 ft.					-4,197.31	0.04
Freight trips 750 ft.					**-80.45**	**0.06**
Adjusted *R* Square	0.68		0.68		0.68	
Durbin-Watson	1.90		1.89		1.90	
Degrees of freedom	5,191.00		5,191.00		5,191.00	
F-statistic	148.96		149.25		149.81	

Medium units 1,251 to 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	**Sig.**	**Coefficients**	**Sig.**	**Coefficients**	**Sig.**
(Constant)	56,488.09	0.00	56,538.94	0.00	56,397.24	0.00
Building sq. ft.	26.49	0.00	26.43	0.00	26.50	0.00
Garage capacity	4,478.43	0.00	4,478.38	0.00	4,528.09	0.00
Bath number	2,701.08	0.01	2,727.01	0.01	2,697.55	0.01
Basement sq. ft.	9.31	0.00	9.42	0.00	9.37	0.00
Lot frontage	0.10	0.00	0.10	0.00	0.10	0.00
Lot sq. ft.	0.91	0.00	0.91	0.00	0.91	0.00
Age of house	-523.31	0.00	-525.11	0.00	-524.87	0.00
Station RTA 1,000 ft.	10,441.52	0.11	9,276.93	0.16	9,661.90	0.14
RTA track 1,000 ft.	-10,393.28	0.01	-10,930.67	0.01	-10,213.85	0.01
Crossing 250 ft.	2,207.11	0.66				
Freight trips 250 ft.	**-164.92**	**0.24**				
Crossing 500 ft.			1,741.49	0.58		
Freight trips 500 ft.			**-27.61**	**0.63**		
Crossing 750 ft.					2,814.19	0.24
Freight trips 750 ft.					**-35.52**	**0.61**
Adjusted *R* Square	0.70		0.70		0.70	
Durbin-Watson	1.99		1.99		1.99	
Degrees of freedom	4,775.00		4,775.00		4,775.00	
F-statistic	147.54		147.61		147.52	

Large units over 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	**Sig.**	**Coefficients**	**Sig.**	**Coefficients**	**Sig.**
(Constant)	42,628.11	0.00	42,833.68	0.00	42,036.57	0.00
Building sq. ft.	39.38	0.00	39.29	0.00	39.40	0.00
Garage capacity	6,301.06	0.00	6,268.31	0.00	6,262.75	0.00
Bath number	12,914.22	0.00	12,928.01	0.00	12,980.06	0.00
Basement sq. ft.	9.63	0.00	9.62	0.00	9.59	0.00
Lot frontage	0.19	0.00	0.19	0.00	0.19	0.00
Lot sq. ft.	1.52	0.00	1.53	0.00	1.52	0.00
Age of house	-744.37	0.00	-744.51	0.00	-740.95	0.00
Station RTA 1,000 ft.	1,722.10	0.79	-2,615.66	0.70	-667.42	0.93
RTA track 1,000 ft.	376.34	0.94	-1,602.79	0.75	-3,951.61	0.45
Crossing 250 ft.	5,360.47	0.56				
Freight trips 250 ft.	**-42.74**	**0.88**				
Crossing 500 ft.			1,200.04	0.80		
Freight trips 500 ft.			**30.48**	**0.64**		
Crossing 750 ft.					-4,562.12	0.19
Freight trips 750 ft.					**227.57**	**0.01**
Adjusted *R* Square	0.81		0.81		0.81	
Durbin-Watson	1.97		1.97		1.97	
Degrees of freedom	4,927.00		4,927.00		4,927.00	
F-statistic	267.59		267.85		268.16	

Signif. = statistical significance level. For example, .04 = 96% confidence level

Table 4b Effect of Freight Train Trip Counts on Property Values, 1999

Small units under 1,250 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	46,203.13	0.00	46,277.68	0.00	46,479.72	0.00
Building sq. ft.	20.85	0.00	20.80	0.00	20.88	0.00
Garage capacity	4,623.29	0.00	4,597.04	0.00	4,579.06	0.00
Bath number	3,107.99	0.04	3,034.27	0.04	2,850.52	0.06
Basement sq. ft.	14.64	0.00	14.69	0.00	14.62	0.00
Lot frontage	0.19	0.00	0.19	0.00	0.19	0.00
Lot sq. ft.	0.48	0.00	0.48	0.00	0.48	0.00
Age of house	-369.09	0.00	-369.17	0.00	-365.27	0.00
Station RTA 1,000 ft.	18,183.18	0.00	16,751.99	0.00	17,259.53	0.00
RTA track 1,000 ft.	-8,152.28	0.00	-6,749.18	0.02	-3,946.57	0.18
Crossing 250 ft.	-4,183.39	0.48				
Freight trips 250 ft.	**-193.87**	**0.02**				
Crossing 500 ft.			884.50	0.78		
Freight trips 500 ft.			**-84.92**	**0.05**		
Crossing 750 ft.					-2,363.30	0.27
Freight trips 750 ft.					**-94.17**	**0.00**
Adjusted *R* Square	0.62		0.62		0.62	
Durbin-Watson	1.75		1.76		1.76	
Degrees of freedom	5,989.00		5,989.00		5,989.00	
F-statistic	128.39		128.23		128.77	

Medium units 1,251 to 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	84,403.28	0.00	84,794.33	0.00	85,017.69	0.00
Building sq. ft.	31.10	0.00	30.90	0.00	30.91	0.00
Garage capacity	4,753.83	0.00	4,709.66	0.00	4,734.70	0.00
Bath number	4,575.45	0.00	4,553.61	0.00	4,523.77	0.00
Basement sq. ft.	8.45	0.00	8.34	0.00	8.36	0.00
Lot frontage	0.15	0.00	0.15	0.00	0.15	0.00
Lot sq. ft.	0.69	0.00	0.70	0.00	0.69	0.00
Age of house	-499.04	0.00	-498.42	0.00	-498.39	0.00
Station RTA 1,000 ft.	-5,510.36	0.40	-5,683.83	0.39	-5,162.14	0.44
RTA track 1,000 ft.	843.34	0.81	905.54	0.81	1,726.68	0.65
Crossing 250 ft.	311.96	0.97				
Freight trips 250 ft.	**-262.01**	**0.04**				
Crossing 500 ft.			-4,487.92	0.19		
Freight trips 500 ft.			**-107.15**	**0.15**		
Crossing 750 ft.					-511.54	0.83
Freight trips 750 ft.					**-71.87**	**0.15**
Adjusted *R* Square	0.64		0.64		0.64	
Durbin-Watson	1.56		1.56		1.56	
Degrees of freedom	5,725.00		5,725.00		5,725.00	
F-statistic	131.09		130.81		130.71	

Large units over 1,700 square feet	Within 250 feet		251–500 feet		501–750 feet	
	Coefficients	Sig.	Coefficients	Sig.	Coefficients	Sig.
(Constant)	48,622.51	0.00	48,540.41	0.00	47,957.39	0.00
Building sq. ft.	35.54	0.00	35.55	0.00	35.61	0.00
Garage capacity	4,717.35	0.00	4,748.98	0.00	4,790.22	0.00
Bath number	16,186.00	0.00	16,198.41	0.00	16,227.67	0.00
Basement sq. ft.	10.06	0.00	10.05	0.00	9.99	0.00
Lot frontage	0.28	0.00	0.29	0.00	0.28	0.00
Lot sq. ft.	1.85	0.00	1.85	0.00	1.85	0.00
Age of house	-675.69	0.00	-675.32	0.00	-671.90	0.00
Station RTA 1,000 ft.	9,888.68	0.10	9,783.25	0.11	9,969.80	0.10
RTA track 1,000 ft.	-6,750.15	0.16	-6,768.64	0.17	-7,124.08	0.17
Crossing 250 ft.	-2,950.71	0.73				
Freight trips 250 ft.	**-264.38**	**0.14**				
Crossing 500 ft.			-4,837.08	0.30		
Freight trips 500 ft.			**4.46**	**0.96**		
Crossing 750 ft.					-9,701.36	0.00
Freight trips 750 ft.					**0.82**	**0.99**
Adjusted *R* Square	0.77		0.77		0.77	
Durbin-Watson	1.51		1.51		1.51	
Degrees of freedom	5,837.00		5,837.00		5,837.00	
F-statistic	255.51		255.31		255.83	

Signif. = statistical significance level. For example, .04 = 96% confidence level

track, were modeled. In 1996, prior to announced track reconfigurations, trip counts had little effect on prices, with only one cell having results indicating market awareness of trip counts. In 1999, after the announced changes, among smaller units each trip count was associated with a reduction in sale price of around $194 per additional average daily freight train trip within 250 feet. The reduction in sale price decreased to about $85 and $94 per trip within 500 feet and 750 feet away, respectively. Medium-sized units exhibited a gradient-type effect ranging from $262 to $72, at generally lower significance levels. Larger units also had a drop in sale price of $264 per trip at the closest distance. Thus, adding trip counts substantially improved pricing effects of train trips. It also represents more of a gradient, rather than zonal, pattern of impact.

To put this into perspective, for example, if a $100,000 house were located near a freight train track, and the daily train count were to go from 10 trains per day to 30 trains per day, this would imply a reduction in value of $5,000 (20 trips times $250/trip), or 5%. This is a new finding and represents a contribution to the literature.

In a recent financial settlement related to the train reorganization in the Cleveland area, the railroads negotiated with communities for mitigation of noise and safety concerns, but no funds were provided specifically to compensate residents for losses in property value. Of course, this research has not calculated the net effect (some lines gained trips, some lost), so there is no statement made here about the fairness of these payments, but loss in property values should be included in future negotiations of this type. The train-trip count impact was insignificant before the merger talks and accompanying newspaper publicity. After the publicity, significant modest price reductions were evident and these were consistent with theory. This is evidence that the markets were able to price the train volume data reasonably well, and that the talk of train line reorganization did have a substantial effect on the parameter estimates after the change in trip volumes.

The models appear to work better for smaller-sized units, regardless of distance from the tracks. One possible explanation could be that a higher percentage of the larger units are located in affluent suburbs outside the central city, where other locational amenities outside the model (e.g., school districts) may be affecting value. Smaller sales tended to be in the central city or in a few, inner-ring working-class suburbs.

The implication of this research for appraisers is that they should include proximity to rail lines, train trip counts, and potentially gated crossings in determining the value of residential property.

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Notes and comments

The economic valuation of train horn noise: A US case study

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Abstract

This paper provides a property value-based estimate of the dollar cost of train horn noise in a residential neighborhood in a small town, Wormleysburg, Pennsylvania, US. Residential property values are found to decrease by about $4800, or 4.1%, per 10 db of added noise exposure, for an aggregate total of $4,088,799 in 2004 dollars. The primary study was supplemented with information from a neighborhood survey. Dollar value estimates of train horn costs could prove useful in facilitating balanced benefit-cost analyses of horn noise abatement policies such as quiet zones, wayside horns, underpasses, or street closures.
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1. Introduction

The elimination of train horn noise is the primary benefit to be derived from the establishment of quiet zones for railroads. While the long period of experimentation with quiet zones led to a great deal of information about their effects on safety (Federal Railroad Administration, 1995, 2000; Zador, 2003), the benefits of the elimination of train horn noise have received very little attention beyond studies of residents' annoyance levels (Gent et al., 1998). Therefore this paper may begin to fill a need in the analysis of train horn noise and quiet zone policy decisions.

This paper is derived from a more general benefit-cost analysis of a proposed highway-rail underpass in a residential neighborhood in Wormleysburg, Pennsylvania, a small town directly across the Susquehanna River from Harrisburg. Wormleysburg is divided into a narrow 100 year flood plain near the river and a more elevated section to the west, and into northern and southern sections by a local limited access highway. The rail tracks are somewhat elevated relative to the riverfront neighborhood but are well below the crest of the bluff that leads to the western side of the town. Based on a survey of Wormleysburg residents, the riverfront area is highly impacted by train horn and other noise, while most of the higher elevation area is not.

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2. Resident survey

While the primary estimate of the dollar cost of train horns is based on an analysis of property values presented later, the study also benefits from the findings of a survey distributed to Wormleysburg residents in the summer of 2005. This survey asked about perceived loudness and annoyance levels from train horns and train movement, the impact of horn noise on daily activities such as sleep and outdoor activity, and a hypothetical question regarding residents' willingness to pay to eliminate train horn noise. Identifying variables included location, household size, and tenure. Just over 100 questionnaires were returned, the majority of which were from the northern riverfront and uphill neighborhoods in Wormleysburg closest to the rail crossing. The results are consistent with expectations. Annoyance is closely related to perceived train horn volume. Annoyance levels are far higher in the riverfront north area nearest to the rail crossing, higher for train horns than for train movement, higher for those with fewer years of residence, and higher at night than during the day.

The Wormleysburg resident survey also included the following:

> "This question is not about a real person or a real situation and does not mean you will actually have to pay to stop horn noise. Your best guess will be perfectly acceptable. If you could pay some person or group to stop all train horns, what is the most you would be willing to pay per month?"

While the question seems to invite high responses, response biases existed in both directions. At least half a dozen respondents with high or extremely high levels of annoyance offered a zero payment response. The majority of these few respondents added notes saying that while they were annoyed by horns, someone else should pay for their elimination. On the other hand, two respondents offered dubiously high valuations of \$500 and \$1000 per month, possibly in an attempt to influence the results. Eliminating both groups reduced the average monthly willingness to pay from \$30.18 to \$13.06 per household, a more reliable figure. Because statistical tests found no correlation between family size and respondents' willingness to pay, these responses were interpreted as individual valuations. Therefore, household values were calculated by multiplying the willingness to pay by the number of adults in the household.

Selected annoyance values and monthly willingness to pay by location are presented in Table 1. The positive relationship between respondents' willingness to pay and train horn annoyance levels, measured on a 5 point scale, is clear. The correlations between willingness to pay and annoyance were 0.612 for daytime annoyance levels, 0.637 for evening and nighttime annoyance levels, and 0.671 for frequency of sleep loss. Correlations between willingness to pay and loudness were 0.590 for daytime and 0.600 for night time. All were highly significant. Average monthly household willingness to pay varied from \$66.75 for those with at least one annoyance level of 5 (extremely annoying) to \$0 for those households with a highest annoyance level of 1 (not annoying).

Because of the possible upward bias in the survey results, no aggregate dollar value is reported here. The important finding from the survey is the strong correlation between perceived noise volume, annoyance, willingness to pay, and proximity to the Wormleysburg railroad crossing. This information helps to support the indirect sound figures used in the following property value estimate of horn noise costs.

Table 1
Monthly willingness to pay to eliminate train horns

Area	Number of responses	Average night noise rating (5 point scale)	Average night time annoyance rating (5 point scale)	Household willingness to pay
Riverfront north	17	**4.00**	4.06	\$55.29
Riverfront south	8	2.94	3.00	21.25
Uphill north	29	**2.56**	2.23	5.21
Uphill south	9	3.50	3.58	30.00
Total	63	3.21	3.12	\$24.30

3. Train horn noise and property values

One approach to providing a dollar estimate for the cost of noise uses regression analysis to estimate the one time increase in property value due to the elimination of a noise source. This study utilizes a set of 192 residential properties in Wormleysburg sold between 1980 and 2004. Sales prices were adjusted for housing price inflation using the housing price index for the Harrisburg metropolitan area. In addition to the property's estimated exposure to horn noise, other variables such as lot size, living space, the age of the dwelling, and access to a river view were included as control variables.

Because no sound equipment was available to test train noise directly, a noise distribution map from an Iowa study (Gent et al., 1998) was adjusted to scale and overlaid onto a map of Wormleysburg for northbound and southbound trains. These overlays are shown in Figs. 1 and 2. Gent et al's maps give a visual representation of the resulting sound pattern, and may not be entirely accurate.

Because the Norfolk Southern tracks in Wormleysburg lie partway up a relatively steep hill, sound exposure seems to be pervasive across the riverfront section but relatively negligible for the uphill neighborhood to the west. To test the significance of this topographical issue, the sound distribution overlays from the Gent study were interpreted in three ways. The first interpretation was to make no topographical adjustment in the estimated noise exposure. The second interpretation limits assumed noise exposure to those streets at the river level or above but directly contiguous to the Norfolk Southern tracks. This exposure area is referred to as riverfront plus. The third interpretation limits assumed noise exposure to riverfront blocks only. The (literally) narrower interpretations of sound exposure provide far more significant results than the unadjusted data.

3.1. Property value results

The effect of horn noise on property values was analyzed through multiple regression analysis. Results are shown in Table 2. Results in the uppermost rows indicate that the riverfront and riverfront plus contiguous

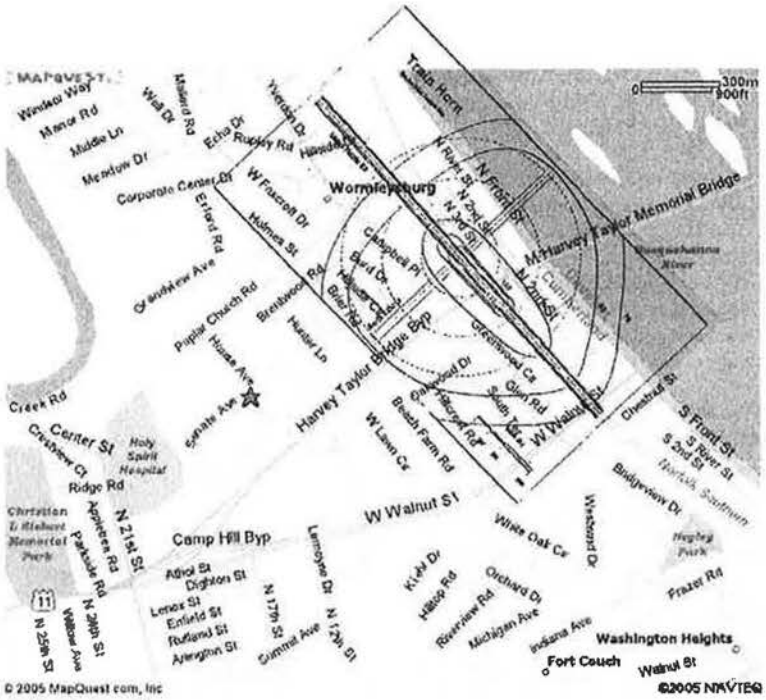

Fig. 1. Northbound Trains.

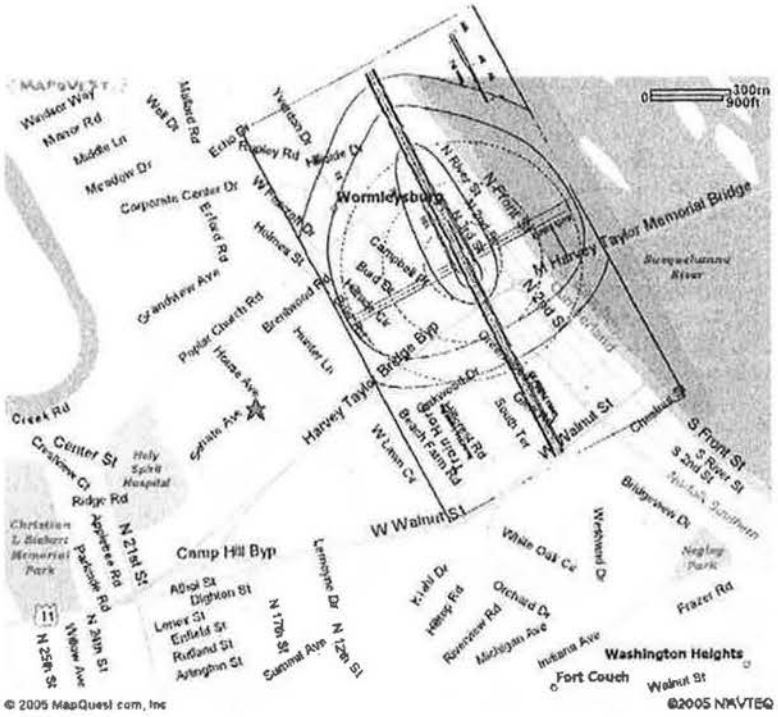

Fig. 2. Southbound Trains.

Table 2
Horn noise effect on real property values[a]

Equation	River level	River level	River plus	River plus	Unadjusted
Constant	146,750	162,036	156,030	172,434	141,102
	(8.56)	(11.368)	(8.12)	(10.29)	(6.22)
Max. horn noise	−4831	−5103			
(River level only)	(−2.213)	(−2.34)			
Max. horn noise			−4,741	−4,837	
(River level plus)			(−1.96)	(−1.99)	
Max. horn noise					−797
(unadjusted area)					(−.257)
Living area	12.085		13.06		13.206
	(1.59)		(1.72)		(1.71)
Acreage	93,814	117,714	86,867	112,956	100,242
	(3.62)	(5.55)	(3.25)	(5.12)	(3.84)
Age of house	−847	−859	−951	−967	−898
	(−5.18)	(−5.23)	(−5.66)	(5.74)	(−4.83)
River view	55,411	61,786	53,802	60,714	55,808
	(5.29)	(6.36)	(5.09)	(6.183)	(5.25)
R^2	0.558	5.52	0.555	0.548	0.546
Adjusted R^2	0.546	5.42	0.543	0.538	0.534

[a] t-statistics are in parentheses; all coefficients are in 2004 dollars.

hillside properties experience significant losses in property values. The average residential property in the riverfront or riverfront plus zones lose between \$4700 and \$4800 dollars of sales value for each 10 db of horn noise exposure above an assumed background level of 50. In the noise exposure zone, properties have an average sales price in 2004 dollars of \$115,953. All else equal, the estimated decrease in property value for exposure to each 10 db above background level is 4.1%. Therefore the residents of the 90+ db area will gain an average

16.6% from the elimination of horn noise, with lesser exposure producing correspondingly lower effects. For all 256 riverfront plus residential properties in the affected zones, the aggregate loss of property value from train horns is estimated to be $4,088,799 in 2004 prices.

Tests of non-linear relationships, including a double log specification and squared noise values, produced less significant results, indicating a linear relationship between added noise exposure and property value. The results for other variables are significant and consistent with expectations in size and sign. A high correlation between living area and acreage did not significantly affect the results, as columns 3 and 5 in Table 2 demonstrate.

There are three possible biases in these estimates. On one hand, horn noise may be more widely dispersed than is indicated by our noise maps. Evidence from the Wormleysburg resident survey indicates that residents to the south of the estimated noise zones also may be annoyed by train horns, although the noise zones do extend somewhat into the southern neighborhoods. Secondly, limited data on factors affecting housing value might mask the possible effect of train horns on property value in the newer and more affluent uphill neighborhoods. However, the resident survey indicated low annoyance levels and low willingness to pay for silencing train horns in this uphill area. The final bias is the lack of any separate measurement for other negative effects of trains, such as movement noise. Efforts to test variables indicating proximity to the tracks well south of the highway intersection produced inconsistent results. If part of the estimated effect of train horns is caused by other rail-related factors, then the estimate is biased upward, all else equal. Given these offsetting biases, the estimated aggregate lost property values seems reasonable.

4. Conclusions

Access to a dollar valuation of the cost of train horn noise will allow a more balanced analysis of the net benefits of quiet zones, stationary horns, underpasses, or other horn noise reduction methods. This paper attempts to provide such an estimate using a property value or revealed preference method, supplemented by a resident survey. According to these estimates, the property value effect of train horns averaged approximately $4800 per 10 db of added noise exposure, or 4.1% of the sales value. For all of the 256 affected residential properties, this totaled just over $4 million in 2004 prices. The Wormleysburg resident survey verified a strong connection between horn noise volume, annoyance, willingness to pay, and location, providing support for the indirect sound estimates use in the property value study.

Acknowledgements

This paper is based on one part of a study funded by the Borough of Wormleysburg, Pennsylvania and Benatec Associates. I wish to thank Tom Kanganis, President of the Wormleysburg Borough Council, for permitting the distribution of the resident survey. Thanks also go to Scott Dennis of the US Department of Transportation for comments on the manuscript. All errors are mine alone.

References

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Federal Railroad Administration, 2000. Updated Analysis of Train Whistle Bans, Federal Railroad Administration, Washington DC. Available from: <http://www.fra.dot.gov/downloads/FromOldSite/pdforphan/nw_update.pdf>.

Gent, S.J., Logan, S., Evans, D., 1998. Evaluation of an Automated Horn Warning System at Three Highway-Railroad Grade Crossings in Ames, Iowa. Avalable from: <http://www.benefitcost.its.dot.gov/its/benecost.nsf/ID/FB0F53D3AD4FAEB68525697B006A0ADA>.

Zador, P.L., 2003. Analysis of the Safety Impact of Train Horn Bans at Highway-Rail Grade Crossings: Final Report, Federal Railroad Administration, Washington DC.

NEGATIVE IMPACTS OF FREIGHT RAIL RE-ROUTE ON PROPERTY VALUE

St. Louis Park is not the first community to have freight rail issues. There are many communities that have re-routes, mergers and in one case new infrastructure that caused existing communities to encounter new or additional freight traffic.

For the last several months I have been reading articles from business and appraisal journals to learn the effect the re-route may have on our property values.
Below is a list of the most pertinent facts:

Negative impacts studied:

- Air pollution
- Noise
- Vibration
- Visual pollution

Factors that diminish the negative impacts:

- Tracks lower than grade level
- Barriers or landscape barriers like bushes
- Homes larger than 1700square feet
- The perception that a neighborhood is affluent
- Negative impact appears to end at approximately 850-900 feet from the tracks

Factors that increase the negative impacts:

- Tracks at grade level or above grade of structure
- Tracks visible from the structure
- The perception that the neighborhood is working or lower class
- Homes near crossings

Estimates of value lost for homes of 1250 sq feet and 250 feet from the tracks:

- Property values begin to decline with the announcement of additional freight traffic
- Loss in value is based on the average number of daily freight trips. (MN&S currently averages two trips a day)
- Loss in value usually ranges from 5-7%
- Structure near a crossing can lose 5-7%
    - It is unclear if this is in addition to loss of value due to proximity or besides
    - Homes away from tracks, but with crossing on access routes are affected. (Dakota Ave. for example)

Some interesting findings about noise:

- Peak noise not average noise is biggest nuisance
    - The hum of a highway is less of a nuisance than a jet overhead
    - A locomotive (engine) passing is more bothersome than the rest of the train
- Trains going less than 35mph the locomotives are the biggest noise issue
- Trains going 35-95mph the wheel noise (clickety clack) is biggest noise issue
- Trains going more than 95mph it is the wind noise that is biggest problem
- The squeal of trains on a curve and the sound of breaks is a problem at all speeds.
- Indirect costs of noise include hearing loss and reduction of well being which can affect a persons productivity
- The Netherlands have strict limits on acceptable noise and the limits for areas near schools, hospitals and residences are more strict than for other areas

Links to articles:

"The effect of freight railroad tracks and train activity on residential property values", by Robert A. Simons and Adellaziz El Joauhari – The Entrepreneur, summer 2004.
http://www.entrepreneur.com/tradejournals/article/120353037.html

"The relationship between property values and railroad proximity: a study based on hedonic prices and real estate brokers' appraisals," by Jon Strand and Mette Vagnes, Transportation, 2001

"Effect of increased Freight Trains on Property Values Along Springfield's 3rd Street Rail Corridor," Springfield-Sagamon County Regional Planning Commission, August 20, 2009.
http://www.co.sangamon.il.us/departments/regionalplanning/PDFs/Brochures_Docs/Effect%20of%20Additional%20Freight%20Trains%20on%20Property%20Values%20-%20UPDATE.pdf

"Railway Externalities and Residential Property Prices," By Barry C.L. Poon, University of Wisconsin Press, May 1978.
A copy write disclaimer does not allow me to share the link.

"Railroad noise: economic valuation and policy" by Martijn Brons, Peter Nijkamp, Eric Pels, Piet Rietveld, Department of Regional Economics, Free University, Amsterdam, Netherlands, Elsevier Science Ltd., 2003

SAFETY IN THE PARK!

APPENDIX

CHAPTER 7 DOCUMENTS

Appendix 7 A

Railroad currently situated on Section 4(f) Property, not mentioned in DEIS

http://gis.co.hennepin.mn.us/property/map/default.aspx?pid=2902924430005

Junction of Cedar Lake Trail and Kenilworth Trail near Penn Ave

Hennepin Interactive Maps

Search Map | Advanced Search

Find a PID or an address on the map

Welcome

Results

Links

Tax Information

View oblique imagery (Bing maps)

Survey Documents

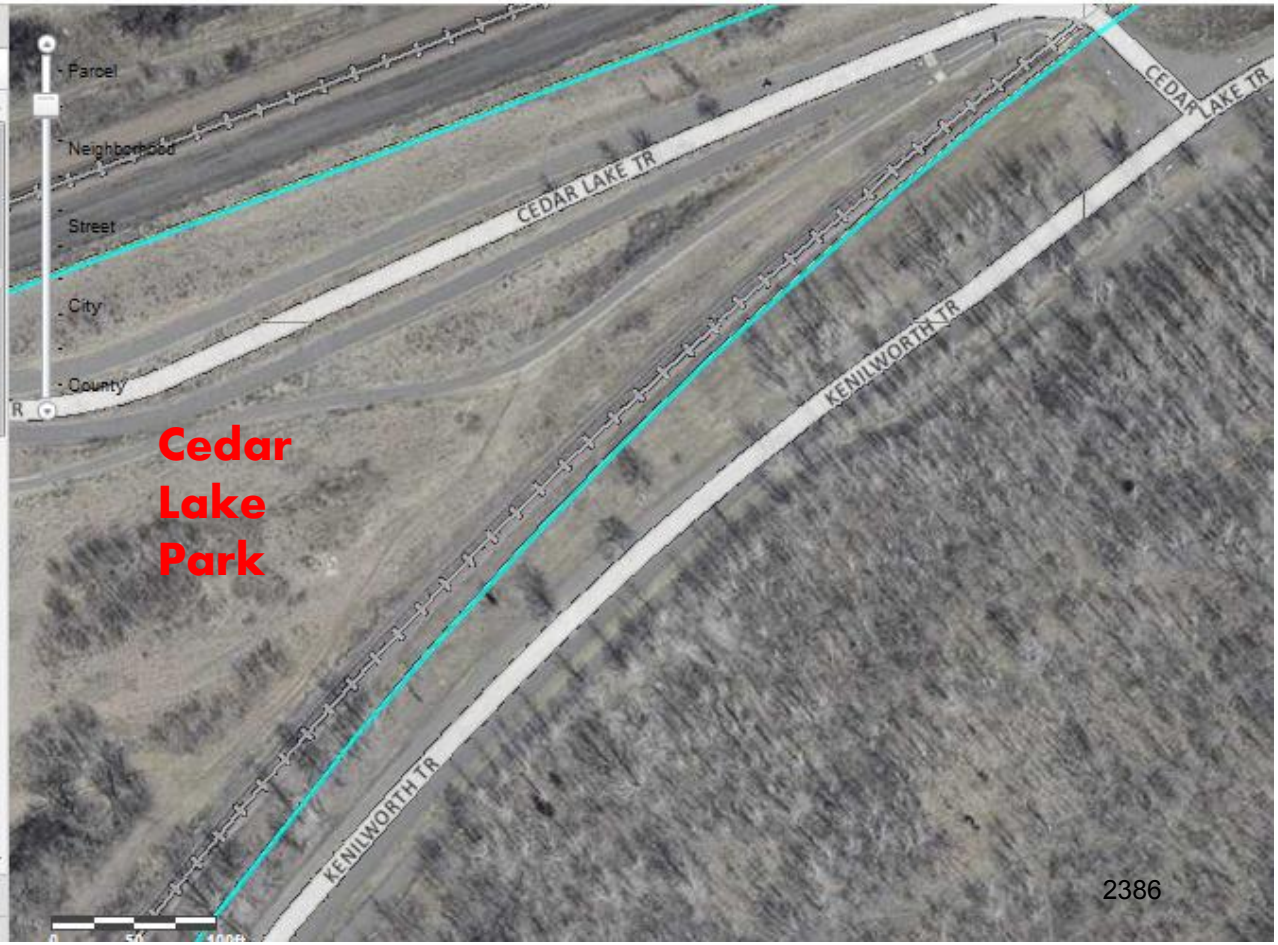
PID: 2902924430005

1800 Upton Ave S
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411
Tax District	
School Dist:	001
Sewer Dist:	
Watershed Dist:	7
Parcel	

Legend

Measure



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PID: 2902924430005

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Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411
Tax District	
School Dist:	001
Sewer Dist:	
Watershed Dist:	7
Parcel	

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Owner/Taxpayer	
Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411
Tax District	
School Dist:	001
Sewer Dist:	
Watershed Dist:	7
Parcel	

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Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411
Tax District	
School Dist:	001
Sewer Dist:	
Watershed Dist:	7
Parcel	

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PID: 2902924430005

1800 Upton Ave S
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Mpls Park & Rec Board
Taxpayer:	CITY OF MPLS PARK BOARD 2117 WEST RIVER RD MINNEAPOLIS MN 55411
Tax District	
School Dist:	001
Sewer Dist:	
Watershed Dist:	7
Parcel	

Legend

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Appendix 7 B
HCRAA Available property for co-location

Enough ROW width for Co-location

- Existing trail corridor is approximately 50’
- Additional width of HCRRA property is 100’ along Cedar Lake Park
- Typical LRT cross section requires 38’ width for LRT. With available ROW width approaching 150’ or more along Cedar Lake Park, there is sufficient width for LRT, freight rail and trails without using Section 4(f) property.

Interactive Maps

Search Map | Advanced Search

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View oblique imagery (Bing maps)

Survey Documents

PID: 2902924410044

1800 Kenwood Pkwy
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Henn Cty Regional Rr Auth
Taxpayer:	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Tax District	
School Dist:	001
Sewer Dist:	
Watershed	

Legend

Measure

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Survey Documents

PID: 3202924120046

2012 Thomas Ave S
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Henn Co Reg Rr Authority
Taxpayer:	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Tax District	
School Dist:	001
Sewer Dist:	
Watershed	

Legend

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Survey Documents

PID: 3202924120045

2600 21st St W
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Henn Co Reg Rr Authority
Taxpayer:	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Tax District	
School Dist:	001
Sewer Dist:	
Watershed	

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PID: 3202924120005

2603 21st St W
Minneapolis, MN 55405

Owner/Taxpayer	
Owner:	Henn Cty Regional Rr Auth
Taxpayer:	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Tax District	
School Dist:	001
Sewer Dist:	
Watershed	

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Tax Information

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Survey Documents

PID: 3202924130001

2820 26th St W
Minneapolis, MN 55405

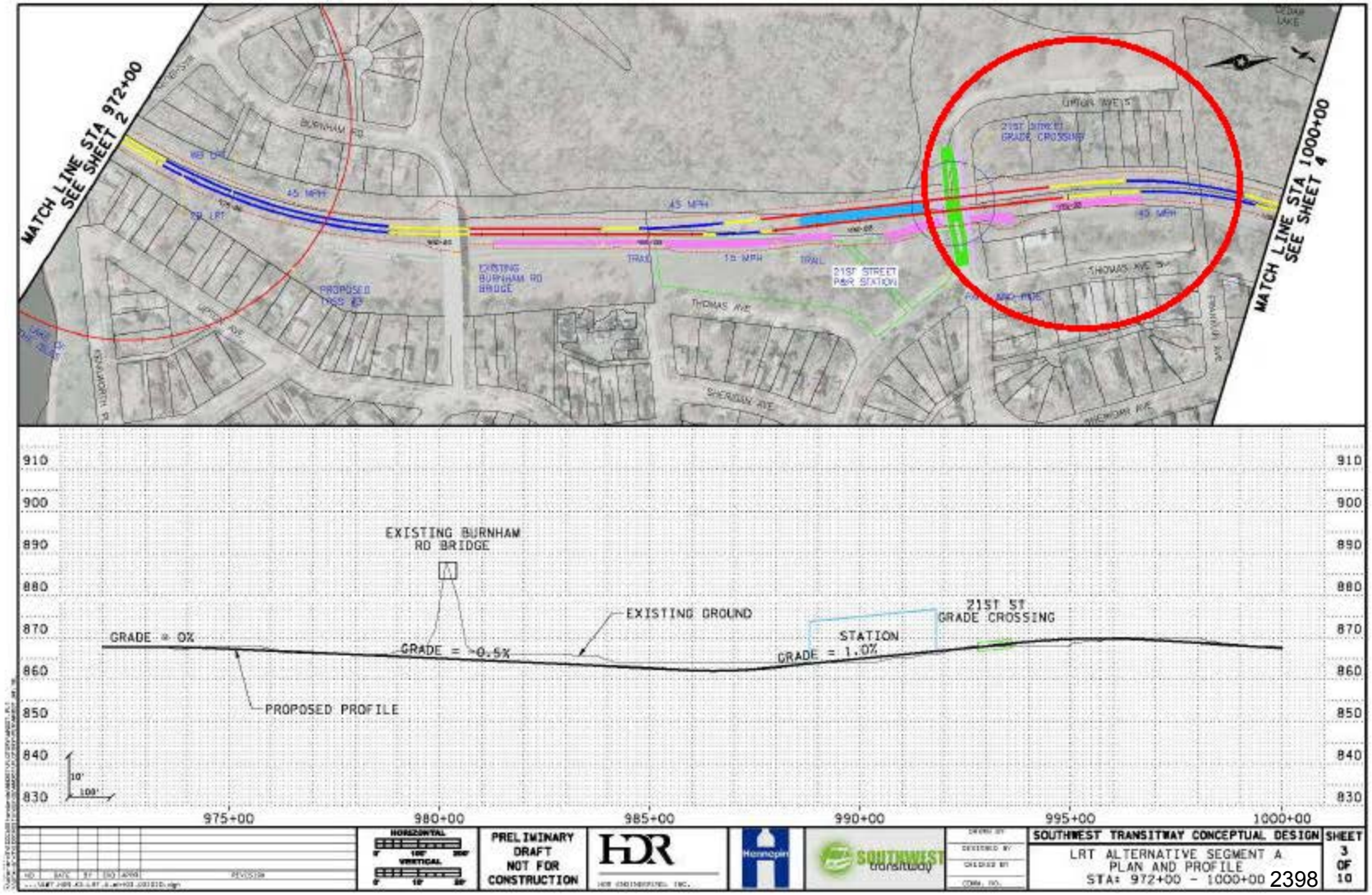
Owner/Taxpayer	
Owner:	Henn Cty Regional Rr Auth
Taxpayer:	HENNEPIN COUNTY REGIONAL RAILROAD AUTHORITY 701 4TH AVE S SUITE 400 MINNEAPOLIS MN 55415
Tax District	
School Dist:	001
Sewer Dist:	
Watershed	

Legend

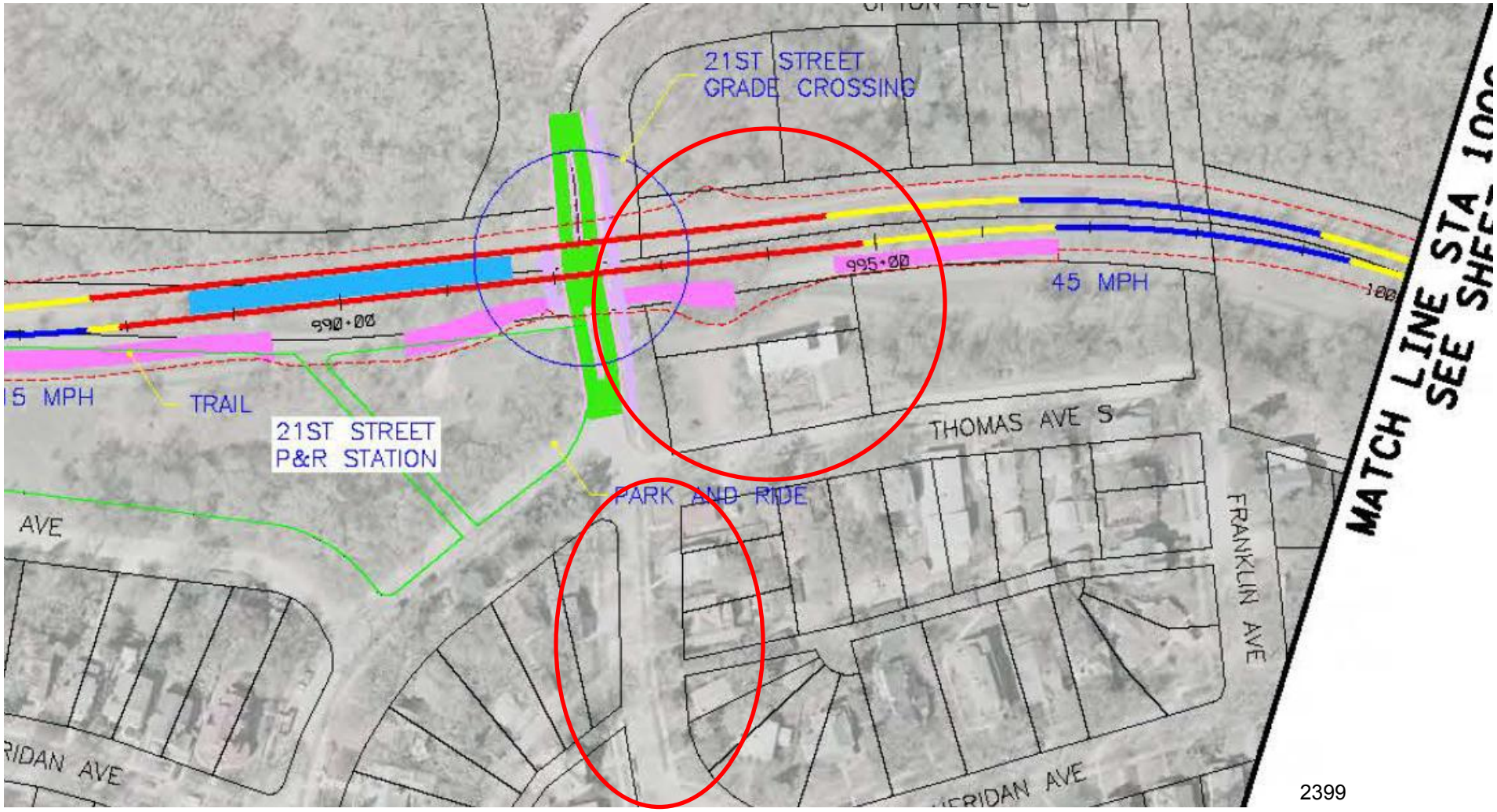
Measure

Appendix 7 C

Improperly overlaid base maps in concept engineering drawings provided in Appendix F of DEIS



Street ROW and residential lot lines do not match up



Marc M. Berg
2913 Webster Avenue South
St. Louis Park, MN 55416

December 21, 2012

VIA EMAIL ONLY (swcorridor@co.hennepin.mn.us)

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

Re: Southwest Light Rail Transit Draft Environmental Impact Statement ("SWLRT-DEIS")

Dear Sir or Madam:

I have lived in St. Louis Park for 19 years, and in the Birchwood neighborhood for almost 17 years. I served at the Birchwood neighborhood alternate to the Project Management Team (the "PMT") that studied and discussed the impact of the proposed freight rail re-route under consideration as part of the Southwest Light Rail Transit ("SWLRT") project. I am submitting this comment to the Draft Environmental Impact Statement (the "DEIS") for the SWLRT, which I understand to be open for public comment through December 31, 2012.

Like other residents of St. Louis Park, I have serious concerns about the negative impact that the proposed re-route of freight rail traffic along the MN&S line will have on the city. Over the past few years that I have followed this issue, I have been unable to unable to understand why the government officials planning the SWLRT have apparently pre-judged the re-route as a preferred alternative to co-locating the new SWLRT with the existing freight rail in the Kenilworth corridor (the "co-location" alternative), or why they have concluded that co-location is either impossible, or so undesirable that opting for co-location would kill the SWLRT project itself. I have always seen the re-route as ***a horrendously bad idea***, ***on many levels***, and I have struggled to understand why the re-route is treated as a precondition to moving forward with SWLRT. The DEIS, unfortunately, fails to provide any satisfactory reasons as to why the SWLRT cannot be built without the re-route.

I have reviewed the DEIS and I believe that the authors have incorrectly concluded that federal law would ***prohibit*** co-location as a viable alternative. Chapter 11, page 12 ("Page 11-12") of the DEIS states that because co-location would require the acquisition of .81 acre of Cedar Laker Park, and because other alternatives (i.e., the LPA/re-route alternative) would not, the U.S. Secretary of Transportation would be legally prohibited from approving co-location under Section 4(f) of the U.S. Department of Transportation Act of 1966, 49 U.S.C. § 303 and 23 U.S.C. § 138 (hereinafter "Section 4(f)" or "the statute"). The DEIS's discussion the facts relating to a Section 4(f) analysis,

and the rationale as to why Section 4(f) is implicated, is set forth in Chapter 7 of the DEIS ("Section 4(f) Evaluation").[1]

I believe that the DEIS concludes that co-location would be "prohibited" because the authors of the DEIS have deliberately misconstrued the statute. Page 11-12 of the DEIS states that "[t]he use of park property is significant," because Section 4(f) "prohibits the Secretary of Transportation from approving a project that requires the use of publicly owned land of a public park . . . of . . . local significance (as determined by the federal, state, or local officials having jurisdiction over the resource), unless the agency can demonstrate that: [t]here is no feasible and prudent alternative to the use of the land; and [t]he action includes all possible planning to minimize harm to the property resulting from such use." The DEIS continues to state that the acquisition of less than an acre of Cedar Lake Park is a Section 4(f) use – presumably, because Cedar Lake Park has been designated as "of local significance" by officials having jurisdiction – and that "[b]ecause this Draft EIS has presented other feasible and prudent alternatives to LRT 3A-1 (co-location alternative), this alternative cannot be recommended as the environmentally preferred alternative." This passage at page 11-12 appears to be the legal "linchpin" of the DEIS's rationale for rejecting co-location as a viable option.

The language of Section 4(f) itself, however, appears to give the U.S. Department of Transportation far greater flexibility in approving projects involving the use of public parks, recreation areas, etc. than what the authors of the DEIS would have us believe. The pertinent language of Section 4(f) is as follows:

> **Approval of Programs and Projects.** Subject to subsection (d), the Secretary may approve a transportation program or project (other than any project for a park road or parkway under section 204 of title 23) requiring the use of publicly owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, State, or local significance, or land of an historic site of national, State, or local significance (as determined by the Federal, State, or local officials having jurisdiction over the park, area, refuge, or site) only if—
> (1) there is no prudent and feasible alternative to using that land; and
> (2) the program or project includes all possible planning to minimize harm to the park, recreation area, wildlife and waterfowl refuge, or historic site resulting from the use.

See 49 U.S.C. § 303(c).

---

[1] My comments below assume, for the sake of discussion, that the acquisition of .81 acres of park land is a Section 4(f) use. See, for example, DEIS, at Page 7-5 ("At this time, these publicly owned properties are assumed to qualify for Section 4(f) protection based on the criteria set forth in 23 C.F.R. § 774"). Recently, another St. Louis Park resident, Mr. Ryan Edstrom, made a presentation to the St. Louis Park City Council in which he argued that the DEIS is incorrect when it states that co-location would impact .81 acres of park land – and, therefore, Section 4(f) is not implicated. I understand that Mr. Edstrom is an engineer by training, and I would encourage you to review his written comments on the DEIS as well. Obviously, if Mr. Edstrom is correct, there is no need for any analysis under Section 4(f), and the co-location alternative cannot be rejected for the reasons argued at Page 11-12 of the DEIS.

Thus, Section 4(f) does not – as the DEIS suggests – state that the Secretary is "prohibited" from approving a project that would involve the acquisition of locally-significant park property "unless" there is no feasible and prudent alternative to using the land. Instead, Section 4(f) states that the Secretary "may" approve the project "only if" there is no prudent and feasible alternative to using the land. The DEIS has attempted to characterize Section 4(f) as being far more restrictive than it actually is.

More importantly, however, the DEIS contains no explanation whatsoever as to how its authors concluded that re-route was a "prudent" alternative. As outlined is Section 4(f), a rejection of co-location in favor of re-route would necessarily require a finding that re-route is both "feasible" and "prudent." The terms "feasible" and "prudent" as used in Section 4(f) are defined in the Code of Federal Regulations, at 23 CFR § 774.17 ("*Feasible and prudent avoidance alternative*"). Under Section 774.17, an alternative is "not feasible if it cannot be built as a matter of sound engineering judgment." Whether an alternative is ***prudent***, however, requires a more thorough and careful evaluation of a number of factors listed under subpart 3 of the definition of "feasible and prudent avoidance alternative" in Section 774.17. Under 23 C.F.R. § 774.17, an alternative is not prudent if:

> **(i)** It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;
> **(ii)** It results in unacceptable safety or operational problems;
> **(iii)** After reasonable mitigation, it still causes:
> **(A)** Severe social, economic, or environmental impacts;
> **(B)** Severe disruption to established communities;
> **(C)** Severe disproportionate impacts to minority or low income populations; or
> **(D)** Severe impacts to environmental resources protected under other Federal statutes;
> **(iv)** It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;
> **(v)** It causes other unique problems or unusual factors; or
> **(vi)** It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.

No where does the DEIS contain any explanation or analysis as to how or why it concluded, based upon the factors listed above, that the re-route fits the definition of a "prudent" alternative within the meaning of Sections 4(f) and 27 C.F.R. § 774.17. Furthermore, I believe that if the DEIS took an honest look at the detrimental impact that the re-route will have on St. Louis Park, it would conclude that re-route is **not** a "prudent" alternative – and, thus, co-location is **not** barred by Section 4(f).

You are likely to receive numerous written comments regarding the negative impact that the re-route will have on St. Louis Park. These impacts include safety concerns, hazardous materials concerns, traffic congestion concerns, emergency vehicle access concerns, as well as increased noise, increased vibrations, interruptions to school operations, increase in the overall project cost, and decrease in homeowner values. Many of these concerns were explained in the PMT process, and at the public hearing on November 14, 2012. Curiously, the DEIS dismisses the expected ***800 percent increase in rail traffic*** on the MN&S line, and the accompanying noise, to be ***"slight"*** impacts (see DEIS, at Page 11-10), there should be no question that the re-route will have a negative impact on St. Louis

Park. If the data is evaluated honestly, the DEIS *should* conclude that the re-route will result in unacceptable safety problems for people who live, work, or attend school near the MN&S. The DEIS *should* conclude that the re-route will result in unacceptable operational problems to both the railroad and the city. The social, economic, and environmental impacts *should* be viewed as severe. The disruption to the established community that lives along the planned re-route *should* be seen as severe. In short, the DEIS should view these concerns in a serious, non-dismissive fashion, and conclude – based upon the factors listed above – that re-route is not a "prudent" alternative.

The required analysis under 23 C.F.R. § 774.17 is missing from the DEIS, which is a critical flaw in this process. The impact on the .81 acre of Cedar Lake Park property is not the "deal-breaker" for co-location that the DEIS makes it out to be. There is no reason that DEIS should not conclude that co-location is the preferred alternative. First, a serious analysis needs to be undertaken as to whether the re-route is "prudent;" and, second, that analysis needs to be clearly explained in the final EIS.

Thank you in advance for your consideration of these public comments.

Marc M. Berg

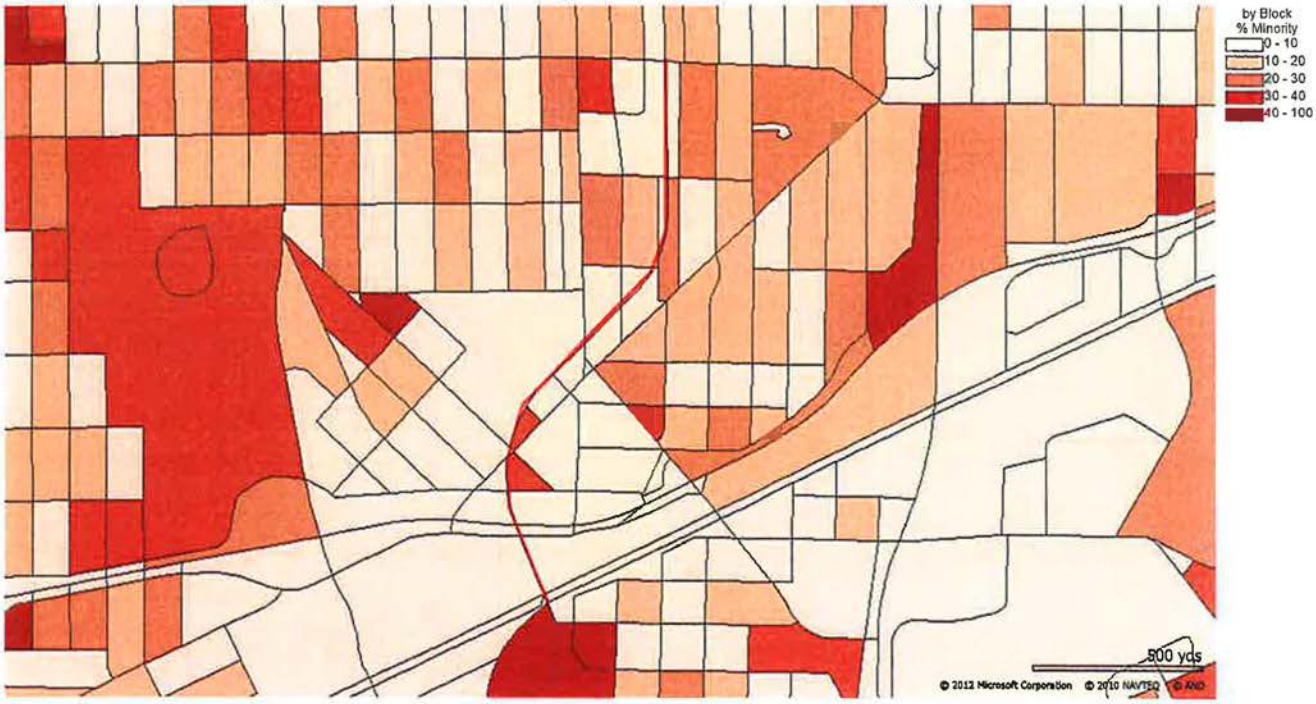
SAFETY IN THE PARK!

APPENDIX

CHAPTER 10 DOCUMENTS

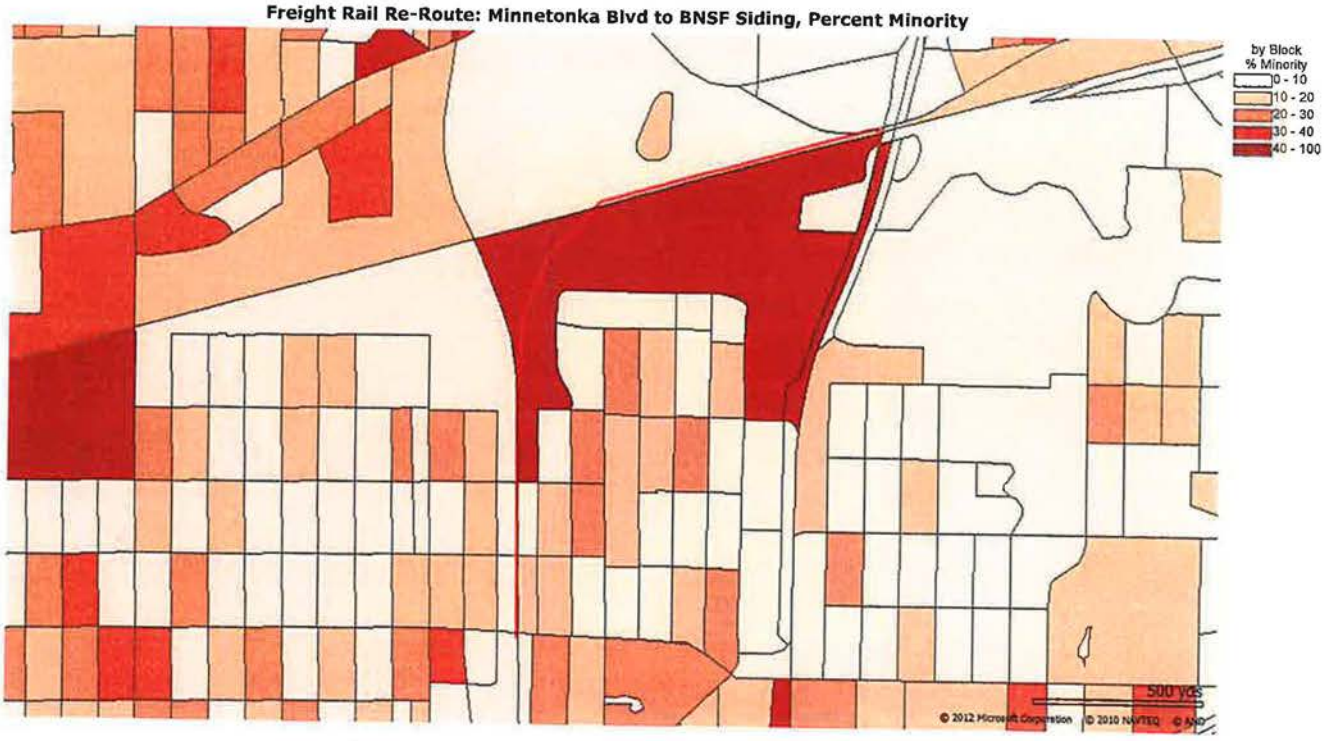
Environmental Justice, Attachment A pg 1 of 3

Freight Rail Re-Route: Bass Lake Spur to Minnetonka Blvd, minority population



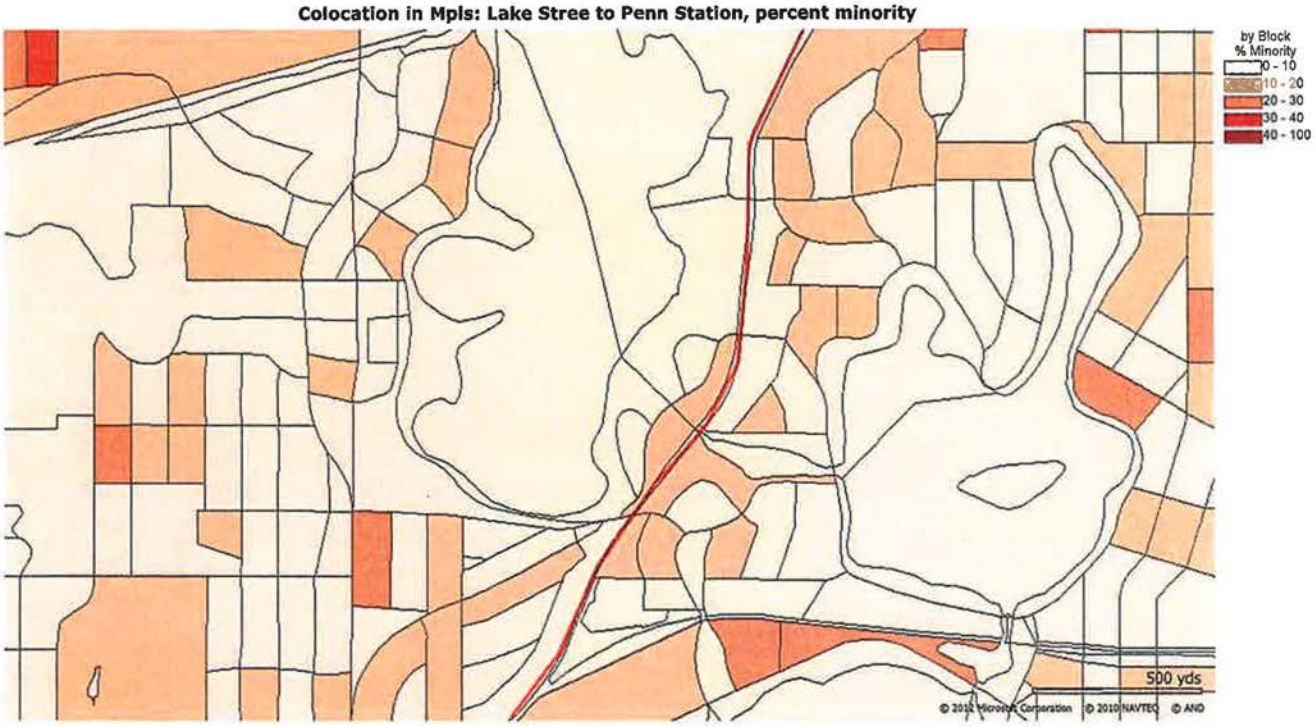
pg 2 of 3

Freight Rail Re-Route: Minnetonka Blvd to BNSF Siding, Percent Minority



Pg 3 of 3

Colocation in Mpls: Lake Stree to Penn Station, percent minority



SAFETY IN THE PARK!

APPENDIX

CHAPTER 12 DOCUMENTS

Origional CAC
Charter from 2012 CAC

Metropolitan Council

Hennepin

Charter of the Southwest LRT Community Advisory Committee (CAC)

SCOPE

The Southwest LRT Community Advisory Committee (CAC) was established in 2007 to provide guidance on community issues during the Alternatives Analysis (AA) and Draft Environmental Impact Statement (DEIS) phases of Southwest LRT project development. Members were appointed by the partner cities and neighborhood organizations to provide representation for the station areas. In 2012, the purpose, role and composition of the CAC is being expanded to provide for broader community involvement on the Southwest LRT project as it progresses through the Preliminary Engineering (PE)/Final EIS phases and Hennepin County's Community Works planning efforts to maximize and integrate economic development along the Southwest LRT line.

PURPOSE

The purpose of the CAC is to serve as a voice for the community and advise the Southwest LRT Corridor Management Committee and the Southwest LRT Community Works Steering Committee during the planning and implementation phases of the light rail line and beyond:

1. Advise on communications and outreach strategies for the Southwest LRT project's Draft Environmental Impact Statement, Preliminary Engineering, and the Final Environmental Impact Statement as well as the Southwest LRT Community Works' land use/economic development and Transitional Station Area Action Plans initiatives.
2. Provide input on station location, design, and construction to reflect the needs of the community, including residents, visitors, businesses, transit riders, pedestrians, and bicyclists.
3. Provide input on station area (1/2 mile radius of station location) vision and character for development from a community perspective.
4. Identify environmental concerns and impacts related to construction and operation of the light rail line.
5. Identify potential issues and review strategies to mitigate the impacts of construction on residences and businesses.
6. Review and comment on major initiatives and actions of the Southwest LRT Community Works program.
7. Serve as an information resource and liaison to the greater corridor community.

REPORTING REQUIREMENTS

The Southwest CAC has reporting responsibilities to both the Southwest LRT Management Committee and the Southwest LRT Community Works Steering Committee.

In addition, the CAC will have a representative from their membership serving as member of the Southwest LRT Management Committee and the Southwest LRT Community Works Steering Committee.

RESPONSIBILITIES

Each member of the Southwest CAC agrees to:

1. Attend a majority of CAC meetings (alternates will be allowed to participate in the committee discussions if CAC staff are notified prior to the meeting.)
2. Be a voice to advance the broader interests of the local community or interest they represent.
3. Routinely report back to their organization on the activities and discussions of the CAC as well as serve as a conduit of information to the broader community.
4. Actively participate in discussions by sharing ideas and expertise.
5. Identify issues affecting communities impacted by both the LRT project development and Community Works initiatives and assist in developing strategies for minimizing those impacts.
6. Provide feedback to the Southwest LRT Communication Steering Committee on the structure and effectiveness of the communication and public involvement efforts.
7. Listen to and respect the viewpoints of others.
8. Accept the outcome of decisions, once they are made.

MEMBERSHIP

Members will be appointed for a one-year term and reconfirmation of membership will be requested on an annual basis.

Membership is intended to represent the diverse interests and stakeholders along the Southwest LRT line and will therefore include people from neighborhood groups, special interest groups, advocacy groups, educational institutions and ethnic communities.

If an appointed member or alternate is no longer able to participate actively in the CAC, the organization that appointed that person will be allowed to name a replacement.

MEETINGS

The CAC will meet monthly on the second Thursday of every month, from 6:00-7:30 P.M. Meetings will be co-chaired by Jennifer Munt, Metropolitan Council District 3, and Jeanette Colby, Kenwood Isles Area Association.

Agendas will be distributed to all members at least five business days before the meeting.

Special meetings, open houses, subcommittees and focus groups will be scheduled at regular intervals and as needed.

To facilitate communication and a sharing of ideas and information, the CAC with meet jointly at least twice each year with the Business Advisory Committee (BAC). This meeting will replace a regularly scheduled CAC meeting.

12.1.3.1a

CITY OF ST. LOUIS PARK

October 14, 2008

Ms. Katie Walker, AICP
Transit Project Manager
Hennepin County Housing, Community Works & Transit
417 North 5th Street, Suite 320
Minneapolis, MN 55401

RE: Scoping for the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway Project

Dear Ms. Walker,

The City of St. Louis Park supports the work of the HCRRA and the development of LRT within the Southwest corridor at the earliest possible date. Improved transit service in the region and Hennepin County and, especially LRT in the Southwest corridor, is vital to future health and prosperity of our area. We applaud the County's leadership and steadfast commitment to bringing LRT service to Southwest Hennepin County.

A project of this magnitude and importance deserves careful planning and evaluation at each step of the process. We look forward to eagerly participating in the Draft Environmental Impact Statement (DEIS) process for the Southwest Transitway. We expect that a careful analysis of the potential impacts will be prepared; and, that potential mitigating measures (and necessary funding) to address any negative impacts will be identified for the corridor.

For St. Louis Park the potential impacts of the Southwest Transitway Project extend beyond the immediate Southwest Corridor itself. They include impacts associated with the potential relocation of freight rail from the trail corridor south of TH7 to the Canadian Pacific (CP) and Burlington Northern Santa Fe (BNSF) rail alignments which pass through the heart of St. Louis Park's residential areas. While we have issues that we have listed below that concern the proposed transitway itself, we especially ask that you make sure issues associated with the potentially rerouted freight rail are completely and comprehensively addressed.

Rerouted freight rail traffic is a big change with the potential to negatively affect many residents and businesses. It is an important issue that the community has anticipated for many years. In 1997 the City of St. Louis Park initiated the Railroad Task Force to study the impact of freight rail traffic on our community and the impact on our neighborhoods if freight rail would be rerouted from its

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Website: www.stlouispark.org
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present tracks along Highway 7/25 to the north-south tracks in St. Louis Park. Such diversion would add significant train traffic to our neighborhoods, which include many homes within 50 ft. of the tracks, sometimes even closer. It would also result in a substantial increase of freight rail traffic immediately adjacent to St. Louis Park High School, and would significantly interfere with vehicle traffic on many already-congested streets, including Excelsior Blvd.

The Task Force expressed a strong preference that freight rail traffic not be rerouted through St. Louis Park, but acknowledged that such rerouting maybe necessary. It reached consensus on principles that should guide the relocation. St. Louis Park requests that the DEIS also use these principles to guide its evaluation of the impacts of the freight rail rerouting and the design of mitigating measures. The principles are:

- Rail traffic should run smoothly, entering and leaving St. Louis Park as efficiently and safely as possible;
- No de-coupling or switching of rail cars should take place in St. Louis Park;
- Noise, vibration, and other adverse impacts on adjacent neighborhoods must be minimized to the extent feasible;
- Safety of at-grade rail/street intersections must be improved for pedestrians, motorists and bicyclists;
- Freight rail traffic coming from the west or east must be split, with half diverted north and half south along the CP tracks

Funding must be made available to accomplish these principles, as part of the development of the SWLRT.

The City of St. Louis Park (SLP) submits the following comments and requests several items be included into the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway Project.

Elimination of Current "Bottleneck"

Two of the potential SWLRT routes (# 1A and 3A) would include a short segment (less than ¼ mile) near W. Lake St. where freight trains currently travel, that is currently too narrow to accommodate the SWLRT parallel to the existing freight rail tracks and bike trail. If either of these routes is selected and the narrow "bottleneck" is not widened or other steps are not taken to accommodate all three modes of transportation, the freight rail would have to be diverted elsewhere. Due to the scarcity of north-south tracks within Hennepin County, that diversion could likely be through St. Louis Park, on the Canadian Pacific and Burlington Northern Santa Fe rail alignments.

St. Louis Park recognizes that the costs and regulatory requirements necessary to implement the mitigation measures associated with freight rail diversion (please see below) will be significant. We therefore urge that the DEIS fully explore the feasibility and costs of alternatives that would eliminate the diversion of freight rail traffic through St. Louis Park.

We request consideration of the following alternatives:

- Purchase sufficient right-of-way adjacent to the "bottleneck" near W Lake St. to accommodate SWLRT, freight rail, and the bike trail.
- Reroute or elevate the bike trail to permit SWLRT and freight rail within the "bottleneck" at West Lake Street.

The costs of one or more of these alternatives, if adopted, likely could be significantly cheaper than the costs of mitigation for freight rail relocation, and would eliminate the extensive disruption to St. Louis Park neighborhoods that would be caused by freight rail diversion.

DEIS study requirements – Freight Rail Rerouting

Freight rail relocation would result in a major increase in freight traffic in residential neighborhoods within St. Louis Park, and many impacts need to be evaluated with the DEIS prior to any decision to affect this potential change. St. Louis Park requests that Hennepin County Regional Rail Authority (HCRRA) address and mitigate impacts on neighbors and neighborhoods adjacent to the CP and BNSF railways in the event that the freight rail is rerouted. The following items need to be evaluated as part of the DEIS process:

- Determine the amount of increased rail traffic that would occur from rerouting trains to the north and east.
- Analyze the need for upgraded tracks and railroad bridges to permit trains to safely and efficiently travel through St. Louis Park.
- Assess the noise, vibration, visual and aesthetic impacts on residences and businesses and determine how to mitigate, in consultation with adjacent neighbors and businesses them.
- Evaluate the specific impacts on St. Louis Park High School with regard to traffic, pedestrian crossings, noise impacts, and the disruption to the learning process from additional rail traffic.
- Evaluate all at-grade rail/street intersections to be improved for the safety of pedestrians, motorists and bicyclists, including the need for signalized crossings. Evaluate using the proper railroad protective devices and the increased noise from additional train traffic.
- Evaluate noise walls, landscaped berms, soundproofing insulation and/or other measures to mitigate negative impacts of rail traffic on the many hundreds of homes and the St. Louis Park Senior High School that are located immediately adjacent to the freight rail tracks.

- Determine if there is a need to purchase more property to accommodate and mitigate the impacts of more rail traffic. Consider purchase of adjacent homes within the usual and customary distance to the rail lines, to create a green buffer for other nearby homes and to provide adequate space to construct noise barriers.
- Evaluate the impacts of building two new bridge connections at the Golden Auto site and an additional rail interconnection at the "iron triangle" site (which must be done prior to the rerouting of any rail traffic).
- Consider that Three Rivers Park District is conducting a feasibility study for a north-south bike/walking trail. Any freight rail diversion should be examined for issues concerning mitigation with trail location, construction, and usage, including the safety impacts of these two adjacent uses.
- Consider the extent which freight rail cars contain hazardous substances as they travel through St. Louis Park, and the impact on our community of any potential derailment.
- Assess elimination of the rail "wye" in the Elmwood/Oxford neighborhood, on which trains are backed up, de-coupled and reconfigured. This is a lengthy and noisy process that adversely affects the neighborhood all hours of the day and night.
- Evaluate the possibility of moving the current rail switching and blocking operations (which occur in SLP, Hopkins, and Minnetonka) to Glencoe.

The potential diversion of freight rail traffic through St. Louis Park would not be necessary but for the potential construction of the SWLRT along Route Nos. 1A or 3A and the potential decision by HCRRA to decline to fix the "bottleneck". Absent such decisions, freight rail traffic could continue indefinitely on its present alignment through the Kenilworth corridor. We believe it is critical that funding be made available to evaluate these impacts on St. Louis Park, as part of the development of the SWLRT. Additionally, the costs of these required measures must be considered, and be transparent to the public, as an integral element of the overall costs of Route Nos. 1A and 3A, when the final route is selected.

DEIS Study Requirements – Additional Transit Impacts

There are a number of issues that need additional attention beyond the typical required DEIS items, due to associated transportation issues. To address these issues, St. Louis Park requests that HCRRA address the following items to be evaluated as part of the DEIS process:

- Address the need to grade separate the light rail line and trail at both Beltline Boulevard and Wooddale Avenue.
- Evaluate the impacts of access, circulation and traffic issues in the station areas.
- Determine the need for parking in the station areas, and determine the demand versus supply and the spillover impacts to neighborhoods.

- Determine the need for a circulating feeder bus system to serve the transit stations; and resolve how that will be provided.

Conclusion

The full costs of rerouting freight rail traffic through St. Louis Park must be evaluated as part of route selection for SWLRT. The above suggests the types of improvements which will be necessary, and which require analysis as part of the DEIS process. We expect that these issues would be reviewed as part of this process and it is our request that the DEIS process incorporate all of our concerns as listed above. We additionally request that the DEIS process include at least one meeting within St. Louis Park to discuss these unique issues.

Thank you for your attention to these concerns.

Sincerely,

Nancy Gohman

Nancy Gohman
Deputy City Manager

CC: Mayor Jeff Jacobs
Councilmember John Basill
Councilmember C. Paul Carver
Councilmember Phil Finkelstein
Councilmember Paul Omodt
Councilmember Loran Paprocki
Councilmember Sue Sanger
City Manager Tom Harmening
Jim Brimeyer, PAC Member
Lisa Miller, CAC Member
Bob Tift, CAC Member
Bill James, CAC Member
Shawn Klein, CAC Member

Riley Purgatory Bluff Creek Watershed District

www.rileywd.org

Board of Managers
~~Joe Bischoff~~
Michael Casanova
Howard Peterson
Kristine Sundberg
Kenneth Wencl

October 23, 2008

Katie Walker, AICP – Transit Project Manager
Hennepin County – Housing, Community Works & Transit
417 North Fifth Street, Suite 320
Minneapolis, Minnesota 55401-1362

Subject: Southwest Transitway Project
Invitation to Participate in Environmental Review Process - Response

Dear Ms. Walker:

Thank you for the invitation to the Riley Purgatory Bluff Creek Watershed District (District) to become a participating agency. The District's focus is maintaining and improving water quality of the water resources within the watershed. From the information you provided, it appears that the Southwest Transitway project will likely have a minimal potential impact to the water resources within the Riley Purgatory Bluff Creek Watershed. In addition, within the District, the possible routes follow existing transportation corridors.

Thus, from a District staff perspective (CH2M HILL is the District Engineer), I will be recommending to the Board of Managers at their next meeting (November 5) that the District not serve as a participating agency. However, the District is interested in following the project as it develops and welcomes the opportunity to submit comments when appropriate. Please keep me apprised of developments and opportunities to comment.

If you have any questions or concerns, please feel free to contact me at Mark.Enochs@CH2M.com or 651.365.8542.

Sincerely,

CH2M HILL, INC.
District Engineer

Mark B. Enochs
Vice President/Program Manager

c: Board of Managers

NOV 0 3 2008

St Louis Park Public Schools
Achieving success, one student at a time.

St. Louis Park Public Schools
District Offices
6425 West 33rd Street
St. Louis Park, Minnesota 55426-3498
952.928.6000 phone
952.928.6020 fax
www.slpschools.org

12.1.3.1 b

October 31, 2008

Southwest Corridor
Hennepin County Transit
417 North 5th Street
Minneapolis, MN 55401

To Whom It May Concern:

This letter serves to provide notice of Independent School District No. 283's concerns regarding the proposed routes for the Southwest Transitway LRT line. The St Louis Park School Board recently reviewed the planned routes of the proposed Southwest Transitway LRT line and believes that there are several concerns that should be addressed during the Draft Environmental Impact Statement process that is underway.

The Board understands that some of the proposed routes of the SW Transitway LRT line may force additional freight train traffic onto the rail line that runs parallel to the south boundary of St. Louis Park Senior High School, located at 6435 West 33rd Street. The additional freight traffic in close proximity to the high school raises safety, noise and vibration impact concerns.

Frequent train traffic operating in the vicinity of our student population likely presents increased risks to both pedestrian and vehicular traffic. Two grade level street crossings currently exist at the southeast and southwest corners of the high school property, with the southeast crossing separating the high school from a McDonald's restaurant frequented by large numbers of our students.

Noise impact is the second concern raised by the proposed LRT lines. Currently, noise generated by trains that travel on this line disrupts the learning process. The close proximity of the high school to the Dakota Avenue crossing with no noise remediation causes distractions to both staff and students from the train travel and the associated horns. Increasing the frequency of these disruptions would compound the already unfavorable conditions.

Finally, although less immediately perceptible, vibration from heavy freight trains may cause damage to nearby structures including district-owned facilities as well as disruptions during the school day.

We appreciate the opportunity to add our input during the scoping process and would welcome a formal presentation by the Hennepin County Regional Railroad Authority to discuss these issues at a future St. Louis Park school board meeting.

Very truly yours,

Bruce Richardson

Bruce Richardson
St. Louis Park Board of Education Chair

cc City of St. Louis Park

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

12.1.3.1c

NOV 06 2008

REPLY TO THE ATTENTION OF:

E-19J

Marisol Simon
Regional Administrator, Region 5
Federal Transit Administration
200 West Adams Street, Suite 2410
Chicago, IL 60604

RE: Scoping Comments on the Notice of Intent to Prepare an Environmental Impact Statement for the Southwest Transitway Project in Hennepin County, Minnesota

Dear Ms. Simon:

This letter is provided in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. The U.S. Environmental Protection Agency (EPA) anticipates reviewing the Environmental Impact Statement (EIS) your agency is preparing for the Southwest Transitway Project in Hennepin County, Minnesota. We have reviewed the September 25, 2008, Notice of Intent (NOI) to prepare an EIS, the Green Means Go scoping information booklet, and the Coordination Plan, dated September 2008. We also participated in the October 15, 2008 Interagency Scoping Meeting.

A Minneapolis southwest public transit corridor has been under consideration since 1980. This corridor is defined and anchored by the two large residential/employment centers of downtown Minneapolis and the southwest Golden Triangle. Following a series of studies and plans, a Southwest Rail Transit Study was begun in 2003, resulting in the publication of the Southwest Transitway Alternatives Analysis in 2007. Although an extensive roadway/ expressway system and a significant and successful bus system serves the metropolitan region, including this corridor, three needs are identified as unmet by the available transportation systems. This proposal's purpose and need are to: 1) improve mobility in this congested corridor; 2) develop a competitive rapid transit alternative for public-transit-dependent and transit-choice travelers; and 3) provide reverse commute service, which is currently unavailable for this area.

Alternatives include a NEPA baseline No-Build proposal and a New Starts baseline of Transportation System Management (TSM) modifications combined with enhanced bus service. Three build alternatives are being brought forward, proposing different routes for a light rail transit system comparable to and compatible with the Hiawatha and Central Corridor Lines. All three alternatives would connect to other transit lines at the downtown Minneapolis Intermodal

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As always, we appreciate Hennepin County's and the Hennepin County Regional Railroad Authority's strong and consistent advocacy of transit as a key feature in moving our metropolitan area towards a sustainable transportation future.

Sincerely,

Brian J. Lamb
General Manager
Metro Transit

Arlene McCarthy
Director
Metropolitan Transportation Services

C: Peter Bell
Tom Weaver
Vince Pellegrin
Julie Johanson
Mark Fuhrmann
John Levin
Tom Thorstenson
Amy Vennewitz

Station, extend southwest through St. Louis Park and Hopkins, and terminate along State Route 5 in Eden Prairie.

It is clear from the existing Hiawatha Line and the developing Central Corridor Line, that the metropolitan Minneapolis-St. Paul region is developing a public rapid transit system. Therefore, one purpose for this Southwest Transitway project would seem to be to extend the developing regional rail transit system to this corridor of the metropolitan area and thus provide direct access from this southwest area to the other branches of the rapid transit system. We recommend that the DEIS discuss this concept more directly in the purpose and need.

We would appreciate the opportunity to work with FTA, providing additional, more specific guidance as this project progresses and planning becomes more refined and specific. Based upon the information provided to date, EPA will look for more clarification in the DEIS regarding issues of air quality, water resources, and other impacts including, but not limited to the following:

Air Quality

- This project must demonstrate transportation conformity with the State Implementation Plan for air quality in the Minneapolis-St. Paul metropolitan region. Air conformity modeling and determinations should be presented in the DEIS using current air quality data and approved methodologies, including for "hot spots" at a number of at-grade crossings with potential to create local congestion pollution. The DEIS should quantify the net air emission consequences for each of the alternatives.
- There is a growing awareness of carbon dioxide and other greenhouse gases as they may affect our global climate. While this transit project is anticipated to reduce such emissions from private vehicles, the system may add bus diesel exhaust and electric generation emissions for trains. The DEIS should quantify these emissions and discuss their general impact upon the global climate. It would also be appropriate to consider how climate changes may impact this project.

Water Resources

- Discussion of avoiding, minimizing and mitigating for impacts to surface waters, wetlands, and floodplain areas affected by the project should be presented in the DEIS, for project construction, maintenance and operational impacts. This should include provisions for the handling of stormwater run-off volumes and pretreatment prior to discharging to natural water resources.
-The DEIS should provide specific mitigation details and commitments, including maintenance of such water resource impact mitigations. An adaptive management program for these functions may be appropriate.

Other Impacts

-The DEIS should discuss all impacts arising from project ancillary operations, including storage and maintenance facilities, power stations, electric generation and other utilities.
-Park and ride stations are indicated in figures provided, but the agency scoping meeting suggested some key station locations may not be able to accommodate much parking. Alternate station locations, use of parking decks, feeder bus networks, and other measures should be considered to enhance rider access and thus optimize ridership so the project purpose and need are

met and environmental justice community needs are adequately addressed.
-Environmental justice communities should be defined and identified, including maps. All potential and applicable impacts to these communities should be assessed in the DEIS.
-Considerations for safety issues, including emergency responders, should be discussed.
-Any toxic or hazardous waste sites that might be disturbed by the project should be identified, mapped, and assessed for possible remediation.
-Impacts and contributions to the existing transportation network including freight/industrial, automotive, pedestrian, and bicycle modes should be fully presented in the DEIS.
-Indirect and cumulative impacts should include specific considerations for neighborhoods along the right-of-way, socioeconomic impacts, land use changes as they affect both society and natural resources, invasive species, and other impacts specific to this area.
-All historic and cultural resources should be located, mapped, and discussed as to how they might be affected and how these impacts can be mitigated.
-Noise and vibration generators and receptors should be identified, mapped and fully discussed, with minimization and mitigation options evaluated.

We have agreed to be a participating agency on this project, consistent with the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU). EPA always retains its NEPA designated role of participating in federal project development of Purpose and Need, alternatives, methods of evaluation, and measures for avoidance, minimization and mitigation of impacts to the human and natural environment. We also retain our independent responsibility to review and comment for the public record on the DEIS. We intend to fully participate in this project concurrent with these designated responsibilities.

Thank you for the opportunity to provide these scoping comments. A hard copy of the project Alternatives Analysis published in 2007 would be appreciated. If you have any questions on our comments, please contact myself or Norm West, by phone at (312) 353-5692 or by e-mail at west.norman@epa.gov.

Sincerely,

- no reasonable context

Kenneth A. Westlake, Supervisor
NEPA Implementation
Office of Enforcement and Compliance Assurance

1998

Cc: Ms. Katie Walker
Transit Project Manager
Hennepin County Housing, Community Works & Transit
417 North 5th Street, Suite 320
Minneapolis, Minnesota 55401

SAFETY IN THE PARK!

APPENDIX

OTHER SUPPORTING DOCUMENTS

a. Rail Road comments to the MN&S Freight Rail EAW
http://mnsrailstudy.org/yahoo_site_admin/assets/docs/Railroad_Comments.18891450.pdf
b. City of St Louis Park appeal
c. MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray, et al
d. Office of Hennepin County letter, dated Dec. 19, 2011
e. MnDot Resolution, dated Dec. 20, 2011
f. LaPray Response to the motion to dismiss Jan 10, 2012
g. April 18, 2011 SEH DRAFT Technical Memo #4 - Comparison of the MN&S Route & The Kenilworth Route.
Key findings from SEH DRAFT Technical Memo # 4
http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf

STATE OF MINNESOTA
IN COURT OF APPEALS

City of St. Louis Park,

Petitioner,

vs.

Minnesota Department of Transportation,

Respondent.

STATEMENT OF THE CASE OF PETITIONER

Appellate Court Case No. _____

---

1. Court or agency of case origination and name of presiding judge or hearing officer.

Minnesota Department of Transportation (MnDOT); Frank Pafko, Chief Environmental Officer.

2. Jurisdictional statement.

This is a certiorari appeal of the decision by MnDOT making a negative declaration regarding the need for an Environmental Impact Statement for the MN&S Freight Rail Study in St. Louis Park and Minneapolis, Hennepin County, Minnesota. The decision is dated June 30, 2011 and received by Petitioner on July 8, 2011. The statute authorizing certiorari review and fixing the time limit is Minn. Stat. § 116D.04, Subd. 10 (2010), *as amended by* 2011 Minn. Laws, Ch. 4, § 8. The time limit is 30 days from receipt of the decision.

3. State type of litigation and designate any statues at issue.

This an appeal of the decision by MnDOT acting as the Responsible Governmental Unit (RGU) not to perform an Environmental Impact Statement (EIS) relating to the proposed rerouting of freight rail traffic in St. Louis Park. The project proposer is the Hennepin County Regional Railroad Authority.

Statutes and rules at issue include Minn. Stat. § 116D.04(2010); Minn. Rule 4410.1000, Subp. 4 (2010); Minn. Rule 4410.1700 (2010).

4. Brief description of claims, defenses, issues litigated and result below.

MnDOT prepared an Environmental Assessment Worksheet (EAW) for the purpose of determining if the proposed project has the potential for significant environmental effects

requiring the preparation of a more extensive Environmental Impact Statement (EIS). MnDOT made a negative declaration determining that the proposed project does not have the potential for significant environmental effects and that an EIS is not required.

Petitioner, the St. Louis Park School District and numerous citizens participated in the proceeding and submitted substantial evidence demonstrating the significant environmental impacts of the proposed project and necessary mitigation.

In making its decision that an EIS was not necessary, MnDOT treated the Southwest Light Rail Transit Project as a separate project without making any determination supported by Findings as to whether the two projects are connected actions requiring that they be considered one project for purposes of determining the need for an EIS. MnDOT failed to determine that the two projects are connected actions even though the light rail project as currently configured requires the removal of freight rail tracks in the Kenilworth corridor in Minneapolis and the rerouting of trains using those tracks to a reconfigured connection through St. Louis Park.

MnDOT's failure to follow applicable rules relating to connected actions eliminated any comparative analysis of the environmental impacts of co-locating light rail with the existing freight rail tracks in the Kenilworth corridor versus rerouting freight rail through St. Louis Park.

5. List specific issues proposed to be raised on appeal.

a. The record does not support MnDOT's determination that the proposed project does not have the potential for significant environmental effects.

b. MnDOT's decision is arbitrary and capricious.

c. MnDOT did not comply with Minn. Rule 4410.1000, Subp. 4 because it failed to treat the proposed MN&S Freight Rail Project and the Southwest Light Rail Transit Project as connected actions in determining the need for an EIS.

d. MnDOT did not comply with Minn. Rule 4410.1700, Subp. 9 because it failed treat the proposed MN&S Freight Rail Project and the Southwest Light Rail Transit Project as a single project for purposes of the determination of need for an EIS.

6. Related appeals.

Jami Ann LaPray, et al. v. Minnesota Department of Transportation, Appellate Court File No. A111345.

7. Contents of record.

Is a transcript necessary to review the issues on appeal? Yes ( ) No (X)

If a transcript is unavailable, is a statement of the proceeding under Rule 110.03 necessary? Yes ( ) No (X)

In lieu of the record as defined in Rule 110.01, have the parties agreed to prepare a statement of the record pursuant to Rule 110.04? Yes ( ) No (X)

8. Is oral argument requested? Yes (X) No ( )

If so, is argument requested at a location other than that provided in Rule 134.09, subd. 2? Yes ( ) No (X)

9. Identify the type of brief to be filed.

Formal brief under Rule 128.02

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State of Minnesota

In Court of Appeals

Jami Ann LaPray, et al.,

Relators,

v.

Minnesota Department of Transportation,

Respondent.

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TABLE OF CONTENTS

Page

Table of Authorities iv

Statement of Issues Presented 1

Statement of the Case 2

Statement of Facts 3

Argument 11

I. Standard of Review 11

II. The MN&S Freight Rail Project EAW Violates MEPA By Failing To Consder the Southwest Corridor Light Rail Transit Project as a Connected Action and a Phased Action 13

A. The MN&S Freight Rail Project EAW Is Inadequate Because It Fails to Consider the SWLRT Project as a Connected Action 14

B. The MN&S Freight Rail Project EAW is Inadequate Because it Fails To Consider the SWLRT Project as a Phased Action 19

III. The MN&S Freight Rail Project EAW Analysis of Noise and Vibration Impacts, and of Measures To Mitigate Those Impacts, Is Inadequate 20

A. The EAW Assessment of the Project's Noise and Vibration Is Arbitrary and Capricious 21

1. MnDOT's Analysis of the Project's Noise and Vibration Impacts Relies Upon Inaccurate Information and Omits Relevant Data 21

2. MnDOT's Failure to Respond to the Substance of Comments on the EAW's Noise and Vibration Impact Analysis Violates MEPA 25

B. The EAW Discussion of Measures To Mitigate Noise and Vibration From the Project Fails To Satisfy MEPA 27

IV. The EAW Analysis of the Project's Safety Impacts Is Inadequate 30

Conclusion 35

Certification of Brief Length 36

Addendum 37

TABLE OF AUTHORITIES

Page

STATE CASES

Citizens Advocating Responsible Dev. v. Kandiyohi County, 713 N.W.2d 817 (Minn. 2006) 11-13, 27, 29

Concept Properties, LLP v. City of Minnetrista, 694 N.W.2d 804 (Minn. Ct. App. 2005) 12

In re Estate of Turner, 391 N.W.2d 767, 771 (Minn. 1986) 7, 8, 10, 12, 17

Minn. Ctr. for Envtl. Advocacy v. Minn. Pollution Control Agency, 644 N.W.2d 457 (Minn. 2002) 16, 27

Minn. Dep't of Highways v. Halvorson, 181 N.W.2d 473 (Minn. 1970) 7, 8, 10, 17

Minn. Pub. Interest Research Group v. Minn. Envtl. Quality Council, 237 N.W.2d 375, 380-81 (Minn. 1975) 16

Nat'l Audubon Soc'y v. Minn. Pollution Control Agency, 569 N.W.2d 211 (Minn. Ct. App. 1997) 27, 29

No Power Line, Inc. v. Minn. Envtl. Quality Council, 262 N.W.2d 313, 327 (Minn. 1977) 16, 21

Reserve Mining Co. v. Herbst, 256 N.W.2d 808 (Minn. 1977) 26

Trout Unlimited, Inc. v. Minn. Dep't of Ag., 528 N.W.2d 903 (Minn. Ct. App. 1995) ..... passim

FEDERAL CASES

Appalachian Mt. Club v. Brinegar, 394 F. Supp. 105 (D.N.H. 1975) 33

Audubon Soc'y of Central Ark. v. Dailey, 977 F.2d 428 (8th Cir. 1992) 9, 10

Blue Mts. Biodiversity Project v. Blackwood, 161 F.3d 1208 (9th Cir. 1998) 23, 27

Blue Ocean Pres. Soc'y v. Watkins, 754 F. Supp. 1450 (D. Haw. 1991) 16

Davis v. Mineta, 302 F.3d 1104 (10th Cir. 2002) 2, 25, 27

Dune Citizens Against Ruining Our Environment v. Klein,
747 F. Supp.2d 1234 (D. Colo. 2010) 15

Envtl. Defense Fund v. U.S. Army Corps of Eng'rs,
515 F. Supp.2d 69 (D.D.C. 2007) 30

Friends of the Earth v. Hall, 693 F. Supp. 904 (W.D. Wash. 1988) 28, 30

High Sierra Hikers Ass'n v. Weingardt, 521 F.Supp.2d 1065 (N.D. Cal. 2007) 29

Marsh v. Oregon Natural Res. Council, 490 U.S. 360 (1989) 33-34

Massachusetts v. Envtl. Protection Agency,
549 U.S. __, 127 S. Ct. 1438 (2007) 7, 12

Nat'l Audubon Soc'y v. Dep't of the Navy, 422 F.3d 174 (4th Cir. 2005) 23, 32

Nat'l Parks & Conserv. Ass'n v. Bureau of Land Management,
606 F.3d 1058 (9th Cir. 2010) 23

Navajo Nation v. United States Forest Serv.,
479 F.3d 1024 (9th Cir. 2007), *opinion adopted en banc*,
535 F.3d 1058 (9th Cir. 2008), *cert. den.*, 129 S.Ct. 2763 (2009) 25, 27, 34

Neighbors of Cuddy Mt. v. United State Forest Serv.,
137 F.3d 1372 (9th Cir. 1998) 28-30

Oregon Nat. Res. Council v. Harrell, 52 F.3d 1499 (9th Cir. 1995) 28, 30

Robertson v. Methow Valley Citizens Council, 490 U.S. 332 (1989) 28

Save the Yaak Committee v. Block, 849 F.2d 714 (9th Cir. 1988) 15

Sierra Club v. Dombeck, 161 F. Supp. 2d 1052, 1067 (D. Ariz. 2001) 15

Sierra Club v. U.S. Dept. of Energy, 255 F. Supp. 2d 1177 (D. Colo. 2002) 15

The Lands Council v. Powell, 395 F.3d 1019 (9th Cir. 2005) 24

Thomas v. Peterson, 753 F.2d 754, 758 (9th Cir. 1985) 15, 18

Wilderness Soc'y v. Bosworth, 118 F.Supp.2d 1082 (D. Mont. 2000) 29

Silva v. Lynn, 482 F.2d 1282 (1st Cir. 1973) 25, 27, 34

STATUTES

Minnesota Environmental Policy Act,
Minn. Stat.§ 116D.02, subd. 1 27

Minnesota Environmental Policy Act,
Minn. Stat. § 116D.04, subd. 10 12

RULES

Minn. R. 4410.0200, subp. 9c 1, 14, 17

Minn. R. 4410.0200, subp. 23 ..... 22, 27

Minn. R. 4410.0200, supb. 60 19

Minn. R. 4410.0200, subp. 65 ..... 22, 29

Minn. R. 4410.0300, subp. 3 ..... 1, 24, 29, 34

Minn. R. 4410.1000, subp. 4 ..... 1, 14, 18-20

Minn. R. Evid. 201 ..... 7, 12

STATEMENT OF ISSUES PRESENTED

1. Whether the Minnesota Department of Transportation ("MnDOT") acted arbitrarily and capriciously, in excess of its statutory authority, in violation of constitutional provisions, without lawful procedure, in error of law, or without the support of substantial evidence in determining that the Environmental Assessment Worksheet ("EAW") for the proposed MN&S Freight Rail Project complies with the procedures of the Minnesota Environmental Policy Act ("MEPA").

MnDOT determined that the EAW complied with the procedures of MEPA.

Citations: Minn. R. 4410.1000, subp. 4; Minn. R. 4410.0200, subp. 9c; Minn. R. 4410.0200, subp. 60; *Reserve Mining Co. v. Herbst,* 256 N.W.2d 808 (Minn. 1977); *Thomas v. Peterson*, 753 F.2d 754 (9th Cir. 1985).

2. Whether MnDOT acted arbitrarily and capriciously, in excess of its statutory authority, in violation of constitutional provisions, without lawful procedure, in error of law, or without the support of substantial evidence in determining that the EAW for the proposed MN&S Freight Rail Project is adequate under MEPA.

MnDOT determined that the EAW is adequate under MEPA.

Citations: Minn. R. 4410.0300, supb. 3; *Citizens Advocating Responsible Dev. v. Kandiyohi County*, 713 N.W.2d 817 (Minn. 2006); *Reserve Mining Co. v. Herbst,* 256 N.W.2d 808 (Minn. 1977); *Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903 (Minn. Ct. App. 1995); *Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372 (9th Cir. 1998).

3. Whether MnDOT acted arbitrarily and capriciously, in excess of its statutory authority, in violation of constitutional provisions, without lawful procedure, in error of law, or without the support of substantial evidence in determining that the proposed MN&S Freight Rail Project does not have the potential for significant environmental effects and that an environmental impact statement ("EIS") is not needed under MEPA.

MnDOT determined that the proposed MN&S Freight Rail Project does not have the potential for significant environmental effects and that an EIS is not needed under MEPA.

Citations: Citizens Advocating Responsible Dev. v. Kandiyohi County, 713 N.W.2d 817 (Minn. 2006); *Reserve Mining Co. v. Herbst,* 256 N.W.2d 808 (Minn. 1977); *Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903 (Minn. Ct. App. 1995); *Davis v. Mineta*, 302 F.3d 1104 (10th Cir. 2002); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372 (9th Cir. 1998).

STATEMENT OF THE CASE

Relators concur in the Statement of the Case set forth in the City of St. Louis Park's appellate brief. In addition, Relators offer the following Statement.

Relators challenge the adequacy of EAW under MEPA, Minn. Stat. §§ 116D.01 to 116D.11. (Add. 01 to Add. 12.)[1] The EAW evaluates the proposed MN&S Freight Rail Project ("proposed project"), a proposal by the Hennepin County Regional Railroad Authority (HCRRA) to realign and construct railroad track connections,

[1] Relators' brief refers to its Appendix as "A-01" and to its Addendum as "Add. 01."

primarily within the City of St. Louis Park, to relocate freight train operations that currently use the Kenilworth Corridor in Minneapolis. The Statement of Facts describes the proposed project in detail.

MnDOT, the responsible governmental unit under MEPA for the proposed project, prepared the EAW and placed it on public notice in May 2011. The comment period for the EAW closed on June 15, 2011. During the comment period numerous parties, including the City of St. Louis Park, the St. Louis Park Public Schools, and many of the Relators submitted comments critical of the EAW. Among other things, the comments addressed the EAW's inadequate analysis of the adverse impacts of the proposed project, including but not limited to the effects of noise and vibration from new or increased freight rail traffic, and the inadequate discussion of possible mitigation measures.

On June 30, 2011, MnDOT determined that the EAW complies with the procedures of and is adequate under MEPA, and that an EIS is not needed. On July 28, 2011, Relators filed a certiorari appeal with this Court challenging MnDOT's determination that the EAW complies with MEPA. (A11-1345.) The City of St. Louis Park also filed a certiorari appeal regarding the proposed project on August 5, 2001. (A11-1386.) On August 12, 2011, this Court issued an order consolidating the two certiorari appeals.

STATEMENT OF FACTS

Relators are residents of or business owners in St. Louis Park who live, work, or send their children to school in close proximity to the route that under the proposed project will carry freight rail traffic currently using the Kenilworth Corridor. Relators

are aggrieved by MnDOT's decision that the EAW complies with MEPA. They will suffer by being subjected to the adverse effects associated with the proposed project, including but not limited to increased noise and vibration, safety hazards, and decreased property values.

The proposed project involves physical and operational changes to the three primary rail alignments in the City of St. Louis Park:

1. The Bass Lake Spur: The Bass Lake Spur is a CP-owned east-west oriented line that runs through St. Louis Park toward Minneapolis. (A-89, A-94.) In the project area, the Bass Lake Spur is a double track consisting of 112-pound jointed rail. (A-94.) The Twin Cities and Western Railway (TC&W) currently runs light and medium tonnage local freight trains over the alignment, as well as high tonnage coal and ethanol trains. *Id.* Maximum speed on the Bass Lake Spur in the project area is 25 mph for regular freight trains, and 10 mph for coal trains. *Id.*

2. The Wayzata Subdivision: This is a BNSF-owned east-west oriented line that runs through St. Louis Park approximately parallel to, and 1.5 miles north of, the Bass Lake Spur. (A-89, A-95). It also continues on to Minneapolis. (A-96.) The line is a single track in the project area and consists primarily of 115-pound rail, with some sections replaced by 132- and 141-pound rail. *Id.*

3. The MN&S Spur: This CP-owned line runs north-south within the project area, between Louisiana Avenue and Highway 100, through the center of St. Louis Park. Unlike the Bass Lake Spur and the Wayzata Subdivision, the MN&S Spur was designed for light-tonnage (10 to 30 car trains), slow-speed trains, and is constructed

primarily of 90-pound jointed rail. (A-95.) Currently, the only train regularly operating on the MN&S Spur is a light tonnage train that CP operates on a daily round-trip on weekdays to serve local industrial rail customers, none of which are located within project limits. (A-92.) The MN&S Spur crosses the Bass Lake Spur and the Wayzata Subdivision on overhead bridges and does not have direct connections with either line. (A-94, A-96.) However, there is an indirect connection with the Bass Lake Spur via a railway wye in the area known as Skunk Hollow, and at one time there was also a wye connecting the MN&S with the Wayzata Subdivision. *Id.*

The project is a proposal by HCRRA to change the route that the TC&W freight trains travel through St. Louis Park and into Minneapolis. (A-96 to A-98, A-192.) Currently, the TC&W freight trains arriving from the West take the Bass Lake Spur through St. Louis Park to West Lake Street in Minneapolis (just northwest of Lake Calhoun) (A-192). From there, the trains continue on to the Cedar Lake Junction (just south of the intersection of Highway 394 and Penn Avenue) on track owned by HCRRA in what is known as the Kenilworth Corridor. *Id.* At the Cedar Lake Junction, the TC&W trains connect with the BNSF Wayzata Subdivision, which continues on through Minneapolis and into St. Paul. *Id.* Under HCRRA's proposed project the TC&W freight trains would still begin their route on the Bass Lake Spur and still connect with the BNSF Wayzata Subdivision. (A-96 to A-98, A-192.) But rather than taking the Kenilworth Corridor between the two lines, the trains would be rerouted onto the MN&S Spur north through St. Louis Park, where they would then connect with the Wayzata Subdivision and continue on into Minneapolis. *Id.*

To affect these changes, the proposed project includes constructing a direct northbound track connection from the Bass Lake Spur to the MN&S Spur; constructing a direct northbound track connection from MN&S Spur to the Wayzata Subdivision; and upgrading the track on the MN&S line to accommodate the much bigger and faster TC&W freight trains. (A-91 to A-92.) The physical changes to the MN&S line will be substantial and will include upgrading the track to meet FRA Class 2 operations (train speeds of up to 25 mph); replacing the existing MN&S rail with 136-pound welded rail and all-new ballast, ties, and track switches; closing the 29th Street at-grade crossing; and enhancing track signalization. *Id.*

The increase in train traffic through St. Louis Park will also be substantial. Under the proposed project, freight rail traffic through the City of St. Louis Park will increase by 232.5 percent. (A-410.) In addition to the existing CP trains on the MN&S Spur, the new TC&W trains using the line—most of them traveling at 25 mph, over twice the speed of existing CP trains—will include the following:

- One freight train with 2-4 locomotives and 50 cars operating 6 days per week;
- Another freight train with 2-4 locomotives and 20 cars operating 3-4 days per week;
- A unit ethanol train with 2 locomotives and 80 cars operating once every 2 weeks; and
- A unit coal train with 4 locomotives and 120 cars, operating once every 2 weeks in one direction only.

(A-92 to A-93.) In addition to these permanent changes to the MN&S railway and the surrounding community, St. Louis Park residents will also be adversely affected by

construction of the proposed project, which is expected to last at least two construction seasons. (A-99.)

Because of the way the MN&S line was designed and the way the community has developed around it, the proposed project will have a particularly profound effect upon the surrounding residents of St. Louis Park.[2] The MN&S track, which runs straight through the center of the City, was designed for light-tonnage slow-speed trains—10 to 30 car trains traveling at 10 mph or less—and since its inception, that is how the MN&S Spur has been used. (A-95.) The light-duty nature of the railroad has made possible a relatively safe coexistence with the vibrant mix of residential neighborhoods, businesses, schools and parks that has grown up around—and in very close proximity to—the MN&S Spur. Seventy-nine of the 105 City parcels adjacent to the railway are residential, many with backyards abutting the line and houses within 50 feet of the centerline of the tracks. (A-410.) There are also seven schools in the project area project (A-145), including St. Louis Park High School, which has athletic

[2] Although located only minutes from downtown Minneapolis, St. Louis Park, with a population of just over 45,000, prides itself on having the feel of a small town. The city, which was incorporated in 1886, boasts low unemployment, thriving schools, a close-knit community, and 51 parks connected by numerous biking and walking trails. *See* www.stlouispark.org. This Court may take judicial notice of information on the City of St. Louis Park web site. *See, e.g., In re Estate of Turner*, 391 N.W.2d 767, 771 (Minn. 1986) (allowing court to take judicial notice of information in the public record or information that the court could refer to in the course of its own research); *Minn. Dep't of Highways v. Halvorson*, 181 N.W.2d 473, 476 n.5 (Minn. 1970) (taking judicial notice of documents in the state's public records). *See also Massachusetts v. EPA*, 124 S.Ct. 1438, 1458 n.22 (2007) (citing 2005 documents in reviewing a 2003 EPA administrative decision); Minn. R. Evid. 201 (court may take judicial notice of fact not subject to reasonable dispute that is either generally known within the territorial jurisdiction of the trial court or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned). (Add. 28 to Add. 29.)

fields and a parking lot immediately adjacent to the tracks and whose students regularly cross the tracks to access restaurants and other businesses on the other side. (A-409.) The MN&S Spur intersects many of the City's primary streets, and the majority of these intersections are simple at-grade crossings. (A-95.) Similarly, the MN&S Spur runs through many of the City's parks and recreational areas, including Roxbury and Keystone parks, which abut the railway and are separated only by the tracks. (A-407.) Despite the lack of a formal trail crossing between the two parks, park users routinely cross the tracks—a trespass that is relatively risk-free with the current limited train traffic. *Id.* As a result of how closely the railroad and the City are intertwined in this way, even the smallest physical and operational changes to the railway will have dramatic effects on the surrounding community.

The proposed project is also connected to and phased with HCRRA's plans for a southwest light rail transit line ("SWLRT") between Eden Prairie and Minneapolis. Planning for the SWLRT is nearing completion: the SWLRT project has entered the preliminary engineering stage, and HCRRA expects to issue a DEIS for the SWLRT before year end.[3] The HCRRA, the project proposer and current RGU for the SWLRT project, purchased the Kenilworth Corridor from the Chicago Northwestern Railroad decades ago to preserve the right-of-way for future light rail transit use. (A-87.) HCRRA allowed the TC&W temporary use of the Kenilworth Corridor right-of-way

[3] For an updated status of the SWLRT project, *see* www.southwesttransitway.org. This Court may take judicial notice of information on the SWLRT web site. *See, e.g.*, *In re Estate of Turner*, 391 N.W.2d at 771; *Halvorson*, 181 N.W.2d at 476 n.5 (Minn. 1970).

for freight rail "with the understanding that freight rail was only a temporary and [that TC&W] would vacate the corridor" when HCRRA proposed the SWLRT project. (A-507.)

In the fall of 2009 HCRRA recommended as the SWLRT Locally Preferred Alternative (LPA) a route that would run alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis.[4] Also in the fall of 2009, HCRRA in the TC&W Freight Train Realignment Study concluded that the Kenilworth Corridor right-of-way could not accommodate both the proposed SWLRT and the existing TC&W freight rail lines. (A-509.) Accordingly, HCRRA recommended removing the TC&W trains from the Kenilworth Corridor and rerouting them north through St. Louis Park on the MN&S Spur to connect with the BNSF Wayzata Subdivision in the northern part of the City. (A-524.) This rerouting of the TC&W freight trains is essentially the current proposed project addressed in the EAW.

In May 2011, MnDOT, the responsible governmental unit under MEPA for the proposed project, prepared an EAW for the project and placed the EAW on public notice. (A-86.) The comment period for the EAW closed on June 15, 2011. During the comment period numerous parties, including the City of St. Louis Park, the St. Louis Park Public Schools, and many of Relators submitted comments critical of the EAW. Among other things, the comments addressed the EAW's inadequate analysis of the

[4] See www.southwesttransitway.org. In May 2010, the Metropolitan Council approved the Kenilworth route and has amended the Regional Transportation Policy Plan accordingly. *Id.*

adverse impacts of the proposed project, including but not limited to: the effects of noise and vibration from new or increased freight rail traffic; the increased safety risks presented by the increased frequency, speed, and length of TC&W freight trains on the MN&S Spur; increased air emissions resulting from the introduction of TC&W freight trains to the area; impacts on traffic and emergency response times; noise, dust, and odors from construction of the project; and risks presented by potential disturbances of hazardous waste sites in the project area during construction. (*See, e.g.*, A-392 to A-670.) Relators also addressed the EAW's failure to offer adequate mitigation for these and other adverse effects, as well as the HCRRA's failure to adequately address connected actions, including the SWLRT, and cumulative effects associated with the proposed project. *Id.*

As early as May 1996, the City of St. Louis Park passed a resolution opposing the increase of freight rail traffic through the city because of its adverse affects on residential neighborhoods. (A-489 to A-496.)[5] More recently, the City of St. Louis Park passed three resolutions regarding the proposed MN&S Freight Rail Project: (1) a July 6, 2010, resolution (No. 10-070) opposing the rerouting of freight rail traffic from the Kenilworth Corridor to St. Louis Park unless certain conditions were met (A-427 to A-428); (2) a July 6, 2010, resolution (No. 10-071) requesting that the HCRRA reanalyze potential routes for relocating TC&W freight rail traffic from the

[5] This Court may take judicial notice of 1996 resolution of the City of St. Louis Park opposing the increase of freight rail traffic through the city. *See, e.g.*, *In re Estate of Turner*, 391 N.W.2d at 771; *Halvorson*, 181 N.W.2d at 476 n.5.

Kenilworth Corridor (A-417); and (3) a May 31, 2011, resolution (No. 11-058) opposing the rerouting of freight rail traffic from the Kenilworth Corridor to St. Louis Park because the conditions established in City Council Resolution No. 10-070 had not been met (A-423 to A-425).

On June 30, 2011, MnDOT issued Findings of Fact and Conclusions setting forth its determination that the EAW complies with the procedures of and is adequate under MEPA, and that an EIS is not needed. (A-212 to A-321.) In this document, MnDOT responded to comments made by Relators and others. (A-279 to A-488, selected comment letters.) The adequacy of those responses is discussed in the Argument section below.

ARGUMENT

I. STANDARD OF REVIEW

MnDOT's determination that the EAW for MN&S Freight Rail Project is adequate under MEPA is subject to review on a petition for certiorari in this Court. Minn. Stat. § 116D.04, subd. 10 (2010), *as amended by* 2011 Minn. Laws, Ch. 4, § 8. (Add. 08.) This Court must reverse MnDOT's decision if the decision violates a constitutional provision, is in excess of MnDOT's statutory authority or jurisdiction, is made upon unlawful procedure, is affected by other error of law, is unsupported by substantial evidence in the administrative record, or is arbitrary and capricious. Minn. Stat. § 14.69. *See Citizens Advocating Responsible Dev. v. Kandiyohi County Bd. of Comm'rs*, 713 N.W.2d 817, 832 (Minn. 2006) ("*CARD*") (applying Minnesota Administrative Procedure Act, Minn. Stat. § 14.69, standard of

review to MEPA). Contemporaneous written findings articulating the rationale for an adequacy determination under MEPA and submission of an administrative record that includes the documents relied upon in making that determination are necessary to prevent a "post hoc rationalization of a capricious decision." *Concept Properties, LLP v. City of Minnetrista*, 694 N.W.2d 804, 827 (Minn. Ct. App. 2005).

This Court may also consider generally known information that is part of the public record and that the Court could refer to in the course of its own research. *In re Estate of Turner*, 391 N.W.2d 767, 771 (Minn. 1986). *See also Minn. Dep't of Highways v. Halvorson*, 181 N.W.2d 473, 476 n.5 (Minn. 1970) (taking judicial notice of documents in the state's public records); *Massachusetts v. EPA*, 124 S.Ct. 1438, 1458 n.22 (2007) (citing 2005 documents in reviewing a 2003 EPA administrative decision); Minn. R. Evid. 201 (court may take judicial notice of fact not subject to reasonable dispute that is either generally known within the territorial jurisdiction of the trial court or capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned) (Add. 28 to Add. 29).

For this Court to uphold MnDOT's decision regarding the EAW, MnDOT's administrative record must contain substantial evidence supporting its decision that the EAW complies with MEPA. Substantial evidence is "such relevant evidence as a reasonable mind might accept as adequate to support a conclusion." *CARD*, 713 N.W.2d at 832; *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 825 (Minn. 1977). MnDOT's adequacy decision is arbitrary and capricious if the Council failed to consider any important aspect of the MN&S Freight Rail Project or if the rationale for

MnDOT's decision runs counter to the evidence in the administrative record. *CARD*, 713 N.W.2d at 832. This Court must undertake an "independent examination of [the] administrative agency's record and decision" and arrive at the Court's "own conclusions as to the propriety of [MnDOT's] determination." *Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903, 907 (Minn. Ct. App. 1995) (*quoting Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 824 (Minn. 1977). In short, this Court's review of MnDOT's decision that the EAW is adequate must determine whether MnDOT took a "hard look" at the issues the MN&S Freight Rail Project raises and whether MnDOT "genuinely engaged in reasoned decision-making." *CARD*, 713 N.W.2d at 832.

II. THE MN&S FREIGHT RAIL PROJECT EAW VIOLATES MEPA BY FAILING TO CONSIDER THE SOUTHWEST CORRIDOR LIGHT RAIL TRANSIT PROJECT AS A CONNECTED ACTION AND A PHASED ACTION

MEPA requires that connected actions and phased actions be considered in total when preparing an EAW and determining the need for an EIS. The proposed MN&S Freight Rail Project and the SWLRT project are connected actions under MEPA because the HCRRA has concluded that the Kenilworth Corridor right-of-way, which the HCRRA is proposing to use for the SWLRT project, cannot accommodate both the proposed SWLRT project and the existing TC&W freight rail traffic. Similarly, the proposed MN&S Freight Rail Project and the SWLRT project are phased actions because HCRRA has proposed both projects, the projects have environmental effects in the same geographic area, and the two projects will be undertaken sequentially. The

EAW for the MN&S Freight Rail Project, however, does not discuss the SWLRT project as a connected action or a phased action and is therefore inadequate under MEPA.

A. THE MN&S FREIGHT RAIL PROJECT EAW IS INADEQUATE BECAUSE IT FAILS TO CONSIDER THE SWLRT PROJECT AS A CONNECTED ACTION

Under MEPA, connected actions must be considered in total in a single EAW. "Multiple projects and multiple stages of a single project that are connected actions . . . must be considered in total when . . . preparing the EAW, and determining the need for an EIS." Minn. R. 4410.1000, subp. 4 (Add. 26). The Minnesota Environmental Quality Board ("EQB") rules implementing MEPA state that "connected actions" are two "projects" that are "related in any" of the following ways:

> A. one project would directly induce the other;
> B. one project is a prerequisite for the other and the prerequisite project id not justified by itself; or
> C. neither project is justified by itself.

Minn. R. 4410.0200, supb. 9c. (Add. 14.) In its 1988 Statement of Need and Reasonableness ("SONAR") adding the "connected actions" definition, the EQB stated that the term "connected actions is borrowed from the Federal Council on Environmental Quality regulations for implementing NEPA (at 40 CFR section 1508.25) which refers to multiple projects which are related in any of the three ways included in the definition." 1988 SONAR 3-4, Minn. R. 4410.0200, subp. 1b. According to the EQB, the MEPA "connected action" definition was added "in order to parallel the Federal regulations." 1988 SONAR at 4, Minn. R. 4410.0200, subp. 1b.

Critical to both the EQB definition of "connected actions" and the federal Council on Environmental Quality definition from which the EQB definition was derived is whether one action is "prerequisite" to, or cannot proceed without, the other. For example, where a timber sale could not proceed without construction of a logging road, construction of the road and sale of the timber are "connected" actions. *Thomas v. Peterson*, 752 F2d. 754, 758-59 (9th Cir. 1985) (construing NEPA). *See also Save the Yaak Committee v. Block*, 849 F.2d 714, 720 (9th Cir. 1988) (construing NEPA and holding that an environmental assessment must include an analysis of connected actions "even if the impact of the proposed action is not significant"); *Dune Citizens Against Ruining Our Environment v. Klein*, 747 F. Supp. 2d 1234, 1253-54 (D. Colo. 2010) (where one project would not have taken place without the other, projects lack "independent utility" and were connected actions under NEPA); *Sierra Club v. U.S. Dept. of Energy*, 255 F. Supp. 2d 1177, 1184-85 (D. Colo. 2002) (road and mine site were "connected actions" under NPEA because "[b]ut for the road, the mining company could not access the mine site; absent the mine, there is no independent utility for the access road."); *Sierra Club v. Dombeck*, 161 F. Supp. 2d 1052, 1067 (D. Ariz. 2001) (development and water delivery systems were "connected actions" under NEPA because without a water delivery system the development could not be constructed and without the proposed construction the water delivery system would not be needed). In sum, where one project lays the groundwork for the next, the

projects are "connected actions" because they are interdependent. *Blue Ocean Pres. Soc'y v. Watkins*, 754 F. Supp. 1450, 1458-59 (D. Haw. 1991) (construing NEPA).[6]

Here, the MN&S Freight Rail Project and the SWLRT project are connected actions. The HCRRA, the project proposer for the MN&S Freight Rail Project and the SWLRT project, purchased the Kenilworth Corridor from the Chicago Northwestern Railroad decades ago to preserve the right-of-way for future light rail transit use. (A-87.) HCRRA allowed the TC&W temporary use of the Kenilworth Corridor right-of-way for freight rail "with the understanding that freight rail was only a temporary and [that TC&W] would vacate the corridor" when HCRRA proposed the SWLRT project. (A-507.) In the fall of 2009 HCRRA recommended as the SWLRT Locally Preferred Alternative (LPA) a route that would run alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis. *See* southwestransitway.org. Also in the fall of 2009, HCRRA in the TC&W Freight Train Realignment Study concluded that the Kenilworth Corridor right-of-way could not accommodate both the proposed SWLRT and the existing TC&W freight rail lines. (A-509.) Accordingly, HCRRA recommended removing the TC&W trains from the Kenilworth Corridor and rerouting them north through St. Louis Park on the MN&S Spur to connect with the BNSF Wayzata Subdivision in the northern part of the City. (A-524.) This rerouting of the TC&W freight trains is the current proposed MN&S

[6] MEPA is patterned after NEPA. As a result, Minnesota courts often rely upon federal case law decided under NEPA in construing MEPA provisions. *See, e.g., Minn. Center for Envtl. Advocacy v. Minn. Pollution Control Agency*, 644 N.W.2d 457, 468 n.10 (Minn. 2002); *No Power Line*, 262 N.W.2d at 323 n.28 (Minn. 1977); *Minn. Pub. Interest Research Group v. Minn. Envtl. Quality Council*, 237 N.W.2d 375, 380-81 (Minn. 1975).

Freight Rail Project addressed in the EAW. Because moving existing TC&W freight train operations off the Kenilworth Corridor is a prerequisite for going forward with the SWLRT project, the two projects are "connected actions" under MEPA. Minn. R. 4410.0200, subp. 9c (Add. 14). As a result, MEPA requires that the MN&S Freight Rail Project EAW consider the SWLRT in preparing the EAW and in determining the need for an environmental impact statement. Minn. R. 4410.1000, supb. 4.

The Federal Transit Administration ("FTA") recently confirmed that the MN&S Freight Rail Project and the SWLRT project are connected actions under NEPA, and therefore under MEPA. In a September 2, 2011, letter to the Metropolitan Council, the FTA stated that environmental review of the SWLRT project must "[a]nalyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned Southwest LRT route," because "the freight relocation is necessary . . . to implement the Southwest LRT project as planned." (A-498.)[7] In other words, FTA has expressly stated that the LPA for the SWLRT project requires relocation of TC&W freight rail operations in the Kenilworth Corridor, so the projects are "connected actions" under NEPA that must be evaluated in the environmental impact statement for SWLRT. Similarly, because the two projects are "connected actions," MEPA requires that the MN&S Freight Rail Project EAW evaluate the impacts of the SWLRT project. Minn. R. 4410.1000, subp. 4. (Add. 26.)

[7] This Court may take judicial notice of the FTA letter. *See, e.g., In re Estate of Turner*, 391 N.W.2d at 771; *Halvorson*, 181 N.W.2d at 476 n.5

Unfortunately, the MN&S Freight Rail Project EAW determined that the SWLRT was not a connected action and MnDOT failed to consider both actions in the EAW. MnDOT stated that it did not consider the MN&S Freight Rail Project and the SWLRT project to be connected actions under MEPA. Specifically, MnDOT stated that it would not respond to comments "received relative to studies outside the scope of the MN&S Freight Rail Study; including . . . the Southwest Light Rail Transit (LRT) Draft Environmental Impact Statement (Draft EIS)." (A-222.) Rather, MnDOT claimed that the SWLRT project was "evaluated in the cumulative effects section of the EAW document." *Id.* But a cumulative effects analysis is distinct from and does not satisfy a connected action analysis. *See Thomas v. Peterson*, 753 F.2d at 759 (distinguishing between a "cumulative environmental effects" analysis and a "connected action" analysis). And the EAW discussion of "cumulative potential effects" is generic, includes a very general analysis of the cumulative effects of three projects—not just SWLRT, and does not identify which of those effects are associated with SWLRT. (A-160 to A-164.) In short, the MN&S Freight Rail Project EAW did not include the SWLRT project as a connected acting in preparing the EAW and determining the need for an environmental impact statement. Minn. R. 4410.1000, subp. 4. As a result, the MN&S Freight Rail Project EAW does not comply with MEPA.

B. THE MN&S FREIGHT RAIL PROJECT EAW IS INADEQUATE BECAUSE IT FAILS TO CONSIDER THE SWLRT PROJECT AS A PHASED ACTION

Under MEPA, phased actions must be considered in total in a single EAW. "Multiple projects and multiple stages of a single project that are . . . phased actions must be considered in total when . . . preparing the EAW, and determining the need for an EIS." Minn. R. 4410.1000, subp. 4. (Add. 26.) The EQB rules implementing MEPA state that "phased actions" are two or more actions undertaken by the same project proposer that:

> A. will have environmental effects on the same geographic area; and
> B. are substantially certain to be undertaken sequentially over a limited period of time.

Minn. R. 4410.0200, supb. 60. (Add. 60.) In its 1982 Statement of Need and Reasonableness ("SONAR") discussing the "phased action" definition, the EQB noted that comments suggested that a "limited time period" should be "from three to ten years." 1982 SONAR 22, 6 MCAR § 3.022.B. The EQB decided it was most reasonable not to define a "specific period of time" under the rule and suggested that the rule language referencing a "limited period of time" would be decided on "a case-by-case basis." *Id.*

Here, the MN&S Freight Rail EAW does not comply with MEPA because it fails to consider the SWLRT project as a phased action. The HCRRA is the project proposer for both the MN&S Freight Rail Project and the SWLRT project, and purchased the Kenilworth Corridor from the Chicago Northwestern Railroad decades ago to preserve the right-of-way for future light rail transit use. (A-86 to A-87.) The

MN&S Freight Rail Project and the SWLRT project will have environmental effects in the same geographic area, as the MN&S Freight Rail Project EAW acknowledges. (A-162.) And relocation of MN&S freight rail operations will occur sequentially before the HCRRA may implement the SWLRT Locally Preferred Alternative (LPA), which runs alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis. (A-509, A-524.) But the MN&S Freight Rail Project EAW does not recognize the SWLRT project as a phase action and does not—as MEPA requires—consider the SWLRT project in preparing the EAW and in determining the need for an EIS. Minn. R. 4410.1000, subp. 4. (Add. 26.) As a result, the EAW for the MN&S Freight Rail Project is inadequate as a matter of law under MEPA.

III. THE MN&S FREIGHT RAIL PROJECT EAW ANALYSIS OF NOISE AND VIBRATION IMPACTS, AND OF MEASURES TO MITIGATE THOSE IMPACTS, IS INADEQUATE

Also falling short of the requirements of MEPA is the EAW's inaccurate noise and vibration analysis, as well as the minimal information provided regarding the adequacy of MnDOT's proposed measures to mitigate noise and vibration from the project. As a result, MnDOT's analysis and its discussion of measures to mitigate the project's adverse noise and vibration impacts are inadequate as a matter of law. Moreover, MnDOT ignored or summarily dismissed comments on the EAW regarding noise and vibration. Accordingly, in approving the project before preparing an adequate EAW, MnDOT acted arbitrarily and capriciously.

A. THE EAW ASSESSMENT OF THE PROJECT'S NOISE AND VIBRATION IMPACTS IS ARBITRARY AND CAPRICIOUS

MEPA requires RGUs such as MnDOT to consider the environmental effects of their actions before approving a proposed project. The very purpose of environmental review documents prepared under MEPA "is to determine the potential for significant environmental effects *before* they occur." *Trout Unlimited*, 528 N.W.2d at 909 (emphasis original). An EAW cannot defer the analysis of environmental effects or mitigation measures. *Id.* Moreover, under MEPA MnDOT must be "a source of independent expertise whose scientific investigation can uncover the data necessary to make an informed environmental decision," allowing it to undertake its "own impartial evaluation" of the CCLRT Project and its environmental impacts. *No Power Line v. Minn. Environ. Quality Bd.*, 262 N.W.2d 312, 327 (Minn. 1977). An EAW cannot serve as a document "used to justify a decision." Minn. R. 4410.0300, subp. 3. (Add. 24.) Here, MnDOT's analysis of the proposed project's adverse effects from noise and vibration fails to comply with MEPA for two reasons: (1) MnDOT relied upon inaccurate information and omitted relevant data; and (2) MnDOT failed to respond to the substance of comments addressing the EAW's flawed noise and vibration analysis.

1. MnDOT's Analysis of the Project's Noise and Vibration Impacts Relies Upon Inaccurate Information and Omits Relevant Data

As a threshold matter, MnDOT evidences a fundamental misapprehension of the proper method for evaluating environmental impacts under MEPA. According to MnDOT, existing noise and vibration conditions "are not relevant to the evaluation of

the impacts within the project area." (A-230.) This statement is utterly inexplicable. By definition, an EAW's evaluation of a proposed project's impacts under MEPA requires an analysis of how a proposed project will affect existing environmental conditions in the project area. *See* Minn. R. 4410.0200, subp. 23 (defining the term "environment" as the comparison of the existing environmental condition in an area with the "physical conditions existing in the area that may be affected by a proposed project") (Add. 15) and Minn. R. 4410.0200, subp. 65 (defining the term "project" as "a governmental action, the results of which would cause physical manipulation of the environment") (Add. 65). MnDOT's assertion that existing noise and vibration conditions in the City of St. Louis Park are irrelevant is wrong as a matter of law.

Second, the EAW did not include an accurate assessment of the project's noise impacts. For example, the EAW noise analysis relies upon inaccurate assumptions with respect to train operations under the proposed project. The EAW noise assessment for the proposed project is based upon the "number of locomotives, the number of cars, the changes in speed," and other operational factors. (A-244.) According to MnDOT, the "noise assessment took into account the number of locomotives under the Proposed Action . . . and cars for each train type . . . ." *Id.* In short, the noise analysis for the project in the EAW is completely dependent upon inaccurate assumptions regarding train length and operating time. But MnDOT acknowledged in its response to comments that the "assumptions on train length and operating times were provide[d] by the TC&W during the preparation of the EAW," and the TC&W stated that the information it provided for the EAW was "incorrect."

(A-230.) The EAW, for instance, omitted data for the Bass Line Spur/MN&S Spur connection, which is critical in determining existing noise levels and the net increase in noise levels from the project. (A-402.) Nevertheless, without any analysis or justification MnDOT asserts that the missing information does not change the EAW. (A-320.)

In light of MnDOT's acknowledgment that the underlying assumptions regarding noise are incorrect, the EAW does not include *any* accurate information regarding the project's noise impacts. To fully and fairly evaluate environmental impacts under MEPA, an RGU's analysis must be thorough rather than cursory. *Cf. Nat'l Parks & Conserv. Ass'n v. Bureau of Land Management*, 606 F.3d 1058, 1072-73 (9th Cir. 2010) (construing NEPA in holding that discussion of impacts must be full and fair); *Nat'l Audubon Soc'y v. Dep't of Navy*, 422 F.3d 174, 194 (4th Cir. 2005) (holding that under NEPA an "agency's hard look should include neither researching in a cursory manner nor sweeping negative evidence under the rug."). It is arbitrary and capricious for MnDOT to base its entire noise analysis on train length, operating times, and other information that MnDOT has acknowledged is incorrect.

The EAW also omitted relevant information regarding the proposed project's maximum noise levels. The noise descriptor "Lmax" is the maximum noise level that occurs during an event, such as a train pass-by, and is the noise level that is actually heard by persons during the pass-by. (A-402.) Under the proposed project, net Lmax will increase as a result of the 232.5 percent increase in freight traffic through the City of St. Louis Park. (A-410.) The increase will be particularly significant in residential

areas, which the EAW acknowledges make up almost 73 percent of the properties adjacent to the proposed project. *Id.* But the EAW does not consider Lmax and relies exclusively on the noise descriptor "Ldn." (A-245.) Ldn is an average noise level over a 24-hour period; it does not measure noise that is actually heard by persons. According to MnDOT, Ldn has "replaced" Lmax. *Id.* In actuality, the Lmax and Ldn noise descriptors identify different noise measurements. MnDOT's exclusive reliance upon the Ldn average and exclusion of Lmax—the noise level actually heard by individuals—fails to comply with MEPA's requirement of using "high quality information and accurate scientific analysis." *The Lands Council v. Powell*, 395 F.3d 1019, 1031-32 (9th Cir. 2005) (remanding NEPA environmental review document where Forest Service used methodology lacking relevant variables to accurately determine environmental effects). As such, MnDOT's determination that the EAW satisfies MEPA is arbitrary and capricious.

In addition, the EAW's assumptions in evaluating vibration are flawed. The EAW predicted vibration impacts from the proposed project based upon an analysis of two-train passages, both with two locomotives. The first train passage measured the vibration associated with 2 locomotives and 6 cars; the second measured vibration associated with 2 locomotives and 11 cars. (A-405.) In actuality, the project will involve freight rail trains with 2 to 4 locomotives and no fewer than 10—and as many as 30 thirty—cars. *Id.* Moreover, an independent vibration study demonstrated that vibrations within buildings on Lake Street as a result of the project would be at least 84VdB, which far exceeds federal guidelines for residential and business properties.

(A-406.) The independent study actually *underestimates* the project's vibration impacts by assuming that freight trains will completely pass a property within 24-seconds. *Id.* Under the proposed project, freight trains may travel past a property for more than 10 minutes. *Id.*

2. MnDOT's Failure to Respond to the Substance of Comments on the EAW's Noise and Vibration Impact Analysis Violates MEPA

MnDOT utterly fails to respond to the substance of comments on the EAW's noise and vibration analysis for the proposed project, rendering the EAW inadequate. To comply with MEPA, MnDOT must address the merits of the EAW comments. *Cf. Navajo Nation v. United States Forest Serv.*, 479 F.3d 1024, 1050-51 (9th Cir. 2007), *opinion adopted en banc*, 535 F.3d 1058 (9th Cir. 2008), *cert. den.*, 129 S.Ct. 2763 (2009) (construing NEPA and finding environmental review document inadequate where responses to comments lack reasonable discussion of issues); *Davis v. Mineta*, 302 F.3d 1104, 1122-26 (10th Cir. 2002) (NEPA environmental review document inadequate for failure to address substantive comments). Offering conclusory statements or simply repeating language in the EAW does not satisfy MnDOT's burden. *Silva v. Lynn*, 482 F.2d 1282, 1265 (1st Cir. 1973) (under NEPA, an environmental review document without "good faith, reasoned analysis in response" to comments is inadequate).

MnDOT does not respond to the merits of the EAW comments on noise and vibration issues. Rather, MnDOT acknowledges that the concerns expressed in the comments regarding noise and vibration are "qualitatively correct," but goes on to

assert that the EAW includes a thorough noise and vibration analysis. (A-229.) However, as discussed above, MnDOT failed to analyze whether and how the acknowledged errors in critical assumptions regarding train length operating times affected the EAW's noise and vibration analysis.

In addition, MnDOT utterly failed to include a substantive response to the independent vibration analysis establishing that the EAW underestimated the project's vibration impacts. After acknowledging that the independent vibration study established vibration levels in excess of those that the EAW evaluated, MnDOT stated that "[w]ithout additional details, it is difficult to determine why the independent vibration measures conducted were higher than those conducted during the [EAW] assessment." (A-248.) But MnDOT failed to identify the "additional details" that were missing in the independent vibration study. And all of the details with respect to the study—including the location of the measurements, the protocol that the independent consultant employed, the number of trains, train lengths, train speeds, distance of the line from the point where the measurements were taken, and related information—are included in MnDOT's administrative record. (A-371 to A-385.) Rather than respond to the merits of the independent consultant's vibration study, MnDOT offers speculation to distinguish what it deems to be unfavorable information. The failure to respond to the substance of the independent vibration study is a "danger signal[]" that suggests MnDOT "has not taken a hard look at the salient problems and has not genuinely engaged in reasoned decisionmaking." *Reserve Mining Co. v. Herbst*, 256 N.W.2d 808, 824-25 (Minn. 1977) (citation omitted). Accordingly, MnDOT's failure

to address the substantive comments on the EAW regarding noise and vibration was arbitrary and capricious, and renders the EAW inadequate under MEPA. *Navajo Nation*, 479 F.3d at 1050-51; *Davis*, 302 F.3d at 1122-26; *Silva*, 482 F.2d at 1265.

In an attempt to justify its truncated vibration analysis and failure to respond to the merits of the comments on the EAW, MnDOT repeatedly states that the vibration assessment is for "human annoyance only" and does not establish that vibration levels from the project exceed property damage levels. (A-248.) But property damage alone is not the measure of an adequate environmental review analysis under MEPA. Rather, the statute requires an analysis of a project's affects on the "environment," including "the overall welfare and development of human beings." Minn. Stat. § 116D.02, subd. 1 (Add. 01); Minn R. 4410.0200, subp. 23 (Add. 15). In suggesting that it need not evaluate the project's "human annoyance," MnDOT improperly circumscribes the scope of MEPA.

B. THE EAW DISCUSSION OF MEASURES TO MITIGATE NOISE AND VIBRATION FROM THE PROJECT FAILS TO SATISFY MEPA

To comply with MEPA, the EAW must contain a complete and detailed discussion of mitigation measures *before* MnDOT determines that the document is adequate and approves the Project. *Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903, 909 (Minn. Ct. App. 1995). In addition, the mitigation discussion must be more than mere vague statements of good intentions. *CARD*, 713 N.W.2d at 834; *Nat'l Audubon Soc'y v. Minn. Pollution Control Agency*, 569 N.W.2d 211, 217 (Minn. Ct. App. 1997). *See also Audubon Soc'y of Central Ark. v. Dailey*, 977 F.2d 428, 435-

36 (8th Cir. 1992) (same, construing NEPA); *Robertson v. Methow Valley*, 490 U.S. 332, 352 (1989) (NEPA requires an environmental review document to include a "complete discussion of possible mitigation measures"); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372, 1380-81 (9th Cir. 1998) (under NEPA, an environmental review document must contain a detailed analysis of mitigation measures and their effectiveness, not "broad generalizations and vague references"); *Oregon Nat. Res. Council v. Harrell*, 52 F.3d 1499, 1507 (9th Cir. 1995) (untested mitigation or mitigation that is "continuing to be discussed" is inadequate under NEPA).

Here, the EAW includes only a perfunctory and conclusory discussion of mitigation measures to address the acknowledged adverse noise and vibration effects from the project. The EAW acknowledges that the concerns articulated in the comments regarding noise and vibration associated with the Project's "greater grades and curvatures" are "qualitatively correct." (A-229.) But rather than carefully considering the efficacy of appropriate measures to mitigate these effects, MnDOT simply concludes without analysis that the "noise and vibration evaluations commissioned by the proposers and consultant team" properly evaluated the impacts and suggested appropriate mitigation measures. (A-229.) In short, MnDOT's administrative record lacks substantial evidence establishing that the measures proposed to mitigate noise and vibration will be effective. Rather than provide such information and analysis, MnDOT offers conclusory statements, broad generalizations, and vague references. In the absence of data establishing the efficacy

of the proposed mitigation measures, the EAW is inadequate as a matter of law. *Cuddy Mt.*, 137 F.3d at1380-81; *High Sierra Hikers Ass'n v. Weingardt*, 521 F. Supp. 2d 1065, 1085-86 (N.D. Cal. 2007); *Wilderness Soc'y v. Bosworth*, 118 F. Supp. 2d 1082, 1106 (D. Mont. 2000); *Hall*, 693 F. Supp. at 939.

The EAW also acknowledges that measures to mitigation the MN&S Freight Rail Project's noise and vibration is dependant not upon the discussion in the EAW but upon the "final design configuration" of the Project. (A-229 to A-230.) According to MnDOT, "modifications are possible" before approval of the final project design. (A-230.) MnDOT also claims that noise and vibration mitigation will be addressed "to the satisfaction of all parties during the design review [for the Project], prior to construction." (A-229 to A-230.) But these acknowledgments simply confirm that the administrative record lacks substantial evidence to support the adequacy of MnDOT's conclusions regarding mitigation. Relying upon mitigation measures that are subject to additional development is inconsistent with MEPA's requirement that the MN&S Freight Rail Project EAW contain a full discussion of mitigation measures *before* MnDOT makes an adequacy determination. *Trout Unlimited*, 528 N.W.2d at 909; Minn. R. 4410.0300, supb. 3 (information must be made available "early in the decision making process") (Add. 24). *See also CARD*, 713 N.W.2d at 834 (to avoid preparing an EIS, mitigation measures relied upon in an EAW must be more than mere "vague statements of good intentions"); *Nat'l Audubon Soc'y*, 569 N.W.2d at 217 (Minn. Ct. App. 1997) (same). Quite simply, an EAW offering mitigation measures that are still continuing to be discussed does not comply with MEPA. *Trout*

Unlimited, 528 N.W.2d at 909. *See also Harrell*, 52 F.3d at 1507 (same, construing NEPA); *Friends of the Earth v. Hall*, 693 F. Supp. 904, 939-40 (W.D. Wash. 1988) (failure to adequately describe monitoring plan rendered environmental review document inadequate). MEPA does not allow MnDOT to salvage a deficient EAW by offering speculative statements concerning possible future mitigation. *Cuddy Mt.*, 137 F.3d at 1380-81.

Finally, although not explicitly stated in the EAW, MnDOT's inadequate analysis of noise and vibration mitigation—and its summary rejection of independent studies showing greater noise and vibration impacts than those described in the EAW—appears to be based upon the perceived cost of adequate mitigation. MEPA, however, prohibits MnDOT from truncating its mitigation analysis by "work[ing] backwards from the mitigation dollars [the project proposer] could afford." *Envtl. Defense Fund v. U.S. Army Corps of Eng'rs*, 515 F. Supp. 2d 69, 85 (D.D.C. 2007) (construing NEPA). HCRRA's unwillingness to implement appropriate mitigation measures for the MN&S Freight Rail Project based upon the cost of that mitigation, or upon a fear that such costs may adversely affect considerations for federal funding of the SWLRT Project, does not provide MnDOT with an excuse for an inadequate analysis of mitigation measures in the MN&S Freight Rail Project EAW.

IV. THE EAW ANALYSIS OF THE MN&S PROJECT'S SAFTEY IMPACTS IS INADEQUATE

The MN&S Freight Rail EAW fails to adequately address the proposed project's safety impacts on residential areas in the City of St. Louis Park. In specific,

the EAW improperly relies upon residential backyards and green spaces for a safety buffer. MnDOT also arbitrarily and capriciously rejected a request to conduct a derailment study as part of the MN&S EAW.

The current MN&S Spur, which runs straight through the center of the City, was designed for light-tonnage slow-speed trains—10 to 30 car trains traveling at 10 mph or less. (A-95.) The MN&S Spur has been used for light-tonnage slow-speed trains since its inception. *Id.* The light-duty nature of the railroad has made possible a relatively safe coexistence with the vibrant mix of residential neighborhoods, businesses, schools and parks that has grown up around—and in very close proximity to—the MN&S Spur. Seventy-nine of the 105 City parcels adjacent to the railway are residential, many with backyards abutting the line and houses within 50 feet of the centerline of the tracks. (A-410.) There are also seven schools in the project area project (A-145), including St. Louis Park High School, which has athletic fields and a parking lot immediately adjacent to the tracks and whose students regularly cross the tracks to access restaurants and other businesses on the other side. (A-409.) The MN&S Spur intersects many of the City's primary streets, and the majority of these intersections are simple at-grade crossings. (A-95.) Similarly, the MN&S Spur runs through many of the City's parks and recreational areas, including Roxbury and Keystone parks, which abut the railway and are separated only by the tracks. (A-407.) Despite the lack of a formal trail crossing between the two parks, park users routinely cross the tracks—a trespass that is relatively risk-free with the current limited train traffic. *Id.* As a result of how closely the railroad and the City are intertwined in this

way, even the smallest physical and operational changes to the railway will have dramatic effects on the surrounding community.

Under the MN&S Freight Rail Project, freight traffic on the MN&S Spur through the City of St. Louis Park will increase by a minimum of 232.5 percent. (A-410.) Given the residential nature of the parcels adjacent to the MN&S Spur, the parcels are not properly buffered from the impacts of the MN&S Freight Rail Project. *Id.* And the administrative record lacks substantial evidence establishing that the EAW adequately considered the safety risks of increasing freight rail traffic by 232.5 percent through residential neighborhoods in the City of St. Louis Park. For example, in discussing safety risks, the EAW articulates the general railroad goal of "zero incidents" and states that "the distance of 50 feet has been used to assess the proximity of habitable, or dwelling, structures to the centerline of the tracks." *Id.* But many residential parcels in the City are located within 50 feet of the MN&S Spur and the EAW does not analyze the proposed MN&S Freight Rail Project's impact on the habitability of those parcels. *Id.* Rather, the EAW simply presumes that the proposed Project will use residential backyards and green spaces as a safety buffer. (A-411.) The EAW also omits any analysis of the safety risks imposed by the proposed Project's numerous blind crossings and tight curves, and is utterly silent with respect to possible measures to mitigation such risks. *Id.* As a result, the EAW is inadequate as a matter of law. *Cf. Nat'l Parks & Conserv. Ass'n*, 606 F.3d at 1072-73 (construing NEPA); *Nat'l Audubon Soc'y v. Dep't of Navy*, 422 F.3d at 194 (same).

In addition, the EAW ignores the proposed project's safety risks associated with Roxbury and Keystone parks. The parks abut the existing MN&S spur, are separated only by the tracks, and park users routinely cross the tracks to reach the parks. (A-407.) Crossing the tracks is now relatively risk-free but that will change when the proposed MN&S Freight Rail Project increases traffic volume on the tracks by 232.5 percent and train speed by up to 250 percent. Nevertheless, the EAW offers no specific mitigation to address the safety hazard that the proposed project will create in the vicinity of Roxbury and Keystone Parks. (A-410.)

The EAW also states, incorrectly, that there have been no derailments in the MN&S Spur area. (A-170.) In fact, the Federal Railroad Administration database notes that there have been a number of accidents in the area. (A-411.) These accidents occurred on the MN&S Spur *before* the proposed project's projected 232.5 percent increase in freight rail traffic. And MnDOT refused to undertake a derailment study of the proposed project—even in light of the numerous residential parcels located within 50 feet of the track centerline—because "[i]n the railway industry, a 'Derailment Analysis' or 'Investigation' is undertaken [only] *after* a derailment or similar incident has occurred." (A-254.) (Emphasis added.) But under MEPA, MnDOT must evaluate the impacts of a proposed action—such as the safety risks of the MN&S Freight Rail Project—"early in the decision making process," not after a disaster has occurred. Minn. R. 4410.0300, subp. 3 (Add. 24). *See also Trout Unlimited*, 528 N.W.2d at 909 (same); *Blue Mts. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998) (same, construing NEPA and citing *Marsh v. Oregon Natural Res. Council*, 490

U.S. 360, 371 (1989)); *Appalachian Mt. Club v. Brinegar*, 394 F. Supp. 105, 122 (D.N.H. 1975) (same, construing NEPA).

Finally, MnDOT draws its conclusions regarding the safety of crossings not based upon the proposed MN&S Freight Rail Project, but on current MN&S Spur operations. (A-411.) These conclusions are invalid because they do not account for the 232.5 percent increase in freight rail operations on the MN&S Spur that will occur as a result of the proposed project. MnDOT also suggests that the proposed project will have extensive use of Quiet Zones. (A-411.) But Quiet Zones pose significant safety risks for pedestrian traffic. In fact, Quiet Zones are 69 percent more likely to have pedestrian accidents than areas that do not impose Quiet Zones. *Id.* And there is substantial pedestrian traffic in the proposed project area, including the pedestrian crossings in Roxbury and Keystone Parks discussed above and pedestrian traffic associated with St. Louis Park High School. *Id.* MnDOT did not address these issues in the EAW and failed to respond to substantive comments on the EAW that raised these concerns. As a result, the EAW is inadequate under MEPA. *Navajo Nation*, 479 F.3d at 1050-51; *Davis*, 302 F.3d at 1122-26; *Silva*, 482 F.2d at 1265.

CONCLUSION

For the reasons set forth above, this Court hold that the MN&S Freight Rail Project EAW is inadequate under MEPA and remand this matter for preparation of an adequate EAW or an environmental impact statement.

Dated: December 2, 2011 THE ENVIRONMENTAL LAW GROUP, LTD.

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STATE OF MINNESOTA
IN COURT OF APPEALS

Jami LaPray, et al.,

Relators,

v.

Minnesota Department of Transportation,

Respondent.

CERTIFICATION OF BRIEF LENGTH

APPELLATE CASES: Nos. A11-1345, A-1386

I hereby certify that this brief conforms to the requirements of Minn. R. Civ. App. P. 132.01 for a brief produced with a proportional font. The length of this brief is 9,290 words. This brief was prepared using Microsoft Office Word 2007.

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ADDENDUM

CHAPTER 116D
ENVIRONMENTAL POLICY

116D.01	PURPOSE.	116D.05	INACTIVE.
116D.02	DECLARATION OF STATE ENVIRONMENTAL POLICY.	116D.06	EFFECT OF EXISTING OBLIGATIONS.
116D.03	ACTION BY STATE AGENCIES.	116D.07	INACTIVE.
116D.04	ENVIRONMENTAL IMPACT STATEMENTS.	116D.10	ENERGY AND ENVIRONMENTAL STRATEGY REPORT.
116D.045	ENVIRONMENTAL IMPACT STATEMENTS; COSTS.	116D.11	REPORT PREPARATION.

116D.01 PURPOSE.

The purposes of Laws 1973, chapter 412, are: (a) to declare a state policy that will encourage productive and enjoyable harmony between human beings and their environment; (b) to promote efforts that will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of human beings; and (c) to enrich the understanding of the ecological systems and natural resources important to the state and to the nation.

History: *1973 c 412 s 1; 1986 c 444*

116D.02 DECLARATION OF STATE ENVIRONMENTAL POLICY.

Subdivision 1. **Policy.** The legislature, recognizing the profound impact of human activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high density urbanization, industrial expansion, resources exploitation, and new and expanding technological advances and recognizing further the critical importance of restoring and maintaining environmental quality to the overall welfare and development of human beings, declares that it is the continuing policy of the state government, in cooperation with federal and local governments, and other concerned public and private organizations, to use all practicable means and measures, including financial and technical assistance, in a manner calculated to foster and promote the general welfare, to create and maintain conditions under which human beings and nature can exist in productive harmony, and fulfill the social, economic, and other requirements of present and future generations of the state's people.

Subd. 2. **State responsibilities.** In order to carry out the policy set forth in Laws 1973, chapter 412, it is the continuing responsibility of the state government to use all practicable means, consistent with other essential considerations of state policy, to improve and coordinate state plans, functions, programs and resources to the end that the state may:

(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;

(2) assure for all people of the state safe, healthful, productive, and aesthetically and culturally pleasing surroundings;

(3) discourage ecologically unsound aspects of population, economic and technological growth, and develop and implement a policy such that growth occurs only in an environmentally acceptable manner;

(4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever practicable, an environment that supports diversity, and variety of individual choice;

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(5) encourage, through education, a better understanding of natural resources management principles that will develop attitudes and styles of living that minimize environmental degradation;

(6) develop and implement land use and environmental policies, plans, and standards for the state as a whole and for major regions thereof through a coordinated program of planning and land use control;

(7) define, designate, and protect environmentally sensitive areas;

(8) establish and maintain statewide environmental information systems sufficient to gauge environmental conditions;

(9) practice thrift in the use of energy and maximize the use of energy efficient systems for the utilization of energy, and minimize the environmental impact from energy production and use;

(10) preserve important existing natural habitats of rare and endangered species of plants, wildlife, and fish, and provide for the wise use of our remaining areas of natural habitation, including necessary protective measures where appropriate;

(11) reduce wasteful practices which generate solid wastes;

(12) minimize wasteful and unnecessary depletion of nonrenewable resources;

(13) conserve natural resources and minimize environmental impact by encouraging extension of product lifetime, by reducing the number of unnecessary and wasteful materials practices, and by recycling materials to conserve both materials and energy;

(14) improve management of renewable resources in a manner compatible with environmental protection;

(15) provide for reclamation of mined lands and assure that any mining is accomplished in a manner compatible with environmental protection;

(16) reduce the deleterious impact on air and water quality from all sources, including the deleterious environmental impact due to operation of vehicles with internal combustion engines in urbanized areas;

(17) minimize noise, particularly in urban areas;

(18) prohibit, where appropriate, flood plain development in urban and rural areas; and

(19) encourage advanced waste treatment in abating water pollution.

History: *1973 c 412 s 2; 1986 c 444*

116D.03 ACTION BY STATE AGENCIES.

Subdivision 1. **Requirement.** The legislature authorizes and directs that, to the fullest extent practicable the policies, rules and public laws of the state shall be interpreted and administered in accordance with the policies set forth in sections 116D.01 to 116D.06.

Subd. 2. **Duties.** All departments and agencies of the state government shall:

(1) on a continuous basis, seek to strengthen relationships between state, regional, local and federal-state environmental planning, development and management programs;

(2) utilize a systematic, interdisciplinary approach that will insure the integrated use of the natural and social sciences and the environmental arts in planning and in decision making which may have an impact on the environment; as an aid in accomplishing this purpose there shall be established advisory councils or other forums for consultation with persons in appropriate fields

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of specialization so as to ensure that the latest and most authoritative findings will be considered in administrative and regulatory decision making as quickly and as amply as possible;

(3) identify and develop methods and procedures that will ensure that environmental amenities and values, whether quantified or not, will be given at least equal consideration in decision making along with economic and technical considerations;

(4) study, develop, and describe appropriate alternatives to recommended courses of action in any proposal which involves unresolved conflicts concerning alternative uses of available resources;

(5) recognize the worldwide and long range character of environmental problems and, where consistent with the policy of the state, lend appropriate support to initiatives, resolutions, and programs designed to maximize interstate, national and international cooperation in anticipating and preventing a decline in the quality of the world environment;

(6) make available to the federal government, counties, municipalities, institutions and individuals, information useful in restoring, maintaining, and enhancing the quality of the environment, and in meeting the policies of the state as set forth in Laws 1973, chapter 412;

(7) initiate the gathering and utilization of ecological information in the planning and development of resource oriented projects; and

(8) undertake, contract for or fund such research as is needed in order to determine and clarify effects by known or suspected pollutants which may be detrimental to human health or to the environment, as well as to evaluate the feasibility, safety and environmental effects of various methods of dealing with pollutants.

History: *1973 c 412 s 3; 1985 c 248 s 70; 1986 c 444*

116D.04 ENVIRONMENTAL IMPACT STATEMENTS.

Subdivision 1. [Repealed, 1980 c 447 s 10]

Subd. 1a. **Definitions.** For the purposes of this chapter, the following terms have the meanings given to them in this subdivision.

(a) "Natural resources" has the meaning given it in section 116B.02, subdivision 4.

(b) "Pollution, impairment or destruction" has the meaning given it in section 116B.02, subdivision 5.

(c) "Environmental assessment worksheet" means a brief document which is designed to set out the basic facts necessary to determine whether an environmental impact statement is required for a proposed action.

(d) "Governmental action" means activities, including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by units of government including the federal government.

(e) "Governmental unit" means any state agency and any general or special purpose unit of government in the state including, but not limited to, watershed districts organized under chapter 103D, counties, towns, cities, port authorities, housing authorities, and economic development authorities established under sections 469.090 to 469.108, but not including courts, school districts, Iron Range resources and rehabilitation, and regional development commissions other than the Metropolitan Council.

Subd. 2. [Repealed, 1980 c 447 s 10]

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Subd. 2a. **When prepared.** Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action. No mandatory environmental impact statement may be required for an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), that produces less than 125,000,000 gallons of ethanol annually and is located outside of the seven-county metropolitan area.

(a) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section. A mandatory environmental assessment worksheet shall not be required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol facility as defined in section 41A.105, subdivision 1a, based on the capacity of the expanded or converted facility to produce alcohol fuel, but must be required if the ethanol plant meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant project for which an environmental assessment worksheet is prepared shall be the state agency with the greatest responsibility for supervising or approving the project as a whole.

(b) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet in a manner to be determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30-day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15-day period by not more than 15 additional days upon the request of the responsible governmental unit.

(c) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 100 individuals who reside or own property in the state, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15-day period by not more than 15 additional days upon request of the responsible governmental unit.

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(d) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

(1) the proposed action is:

(i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

(ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;

(2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days prior to the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(e) The board may, prior to final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(f) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, which, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content and level of detail of the statement as well as the alternatives which are appropriate for consideration in the statement. In addition, the permits which will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(g) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement.

(h) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

(i) The proposer of a specific action may include in the information submitted to the responsible governmental unit a preliminary draft environmental impact statement under this

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section on that action for review, modification, and determination of completeness and adequacy by the responsible governmental unit. A preliminary draft environmental impact statement prepared by the project proposer and submitted to the responsible governmental unit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the preliminary draft environmental impact statement. The responsible governmental unit shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the responsible governmental unit to perform its responsibility to review, modify, and determine the completeness and adequacy of the environmental impact statement.

Subd. 2b. **Project prerequisites.** If an environmental assessment worksheet or an environmental impact statement is required for a governmental action under subdivision 2a, a project may not be started and a final governmental decision may not be made to grant a permit, approve a project, or begin a project, until:

(1) a petition for an environmental assessment worksheet is dismissed;

(2) a negative declaration has been issued on the need for an environmental impact statement;

(3) the environmental impact statement has been determined adequate; or

(4) a variance has been granted from making an environmental impact statement by the environmental quality board.

Subd. 3. [Repealed, 1980 c 447 s 10]

Subd. 3a. **Final decisions.** Within 30 days after final approval of an environmental impact statement, final decisions shall be made by the appropriate governmental units on those permits which were identified as required and for which information was developed concurrently with the preparation of the environmental impact statement. Provided, however, that the 30-day period may be extended where a longer period is permitted by section 15.99 or required by federal law or state statute or is consented to by the permit applicant. The permit decision shall include the reasons for the decision, including any conditions under which the permit is issued, together with a final order granting or denying the permit.

Subd. 4. [Repealed, 1980 c 447 s 10]

Subd. 4a. **Alternative review.** The board shall by rule identify alternative forms of environmental review which will address the same issues and utilize similar procedures as an environmental impact statement in a more timely or more efficient manner to be utilized in lieu of an environmental impact statement.

Subd. 5. [Repealed, 1980 c 447 s 10]

Subd. 5a. **Rules.** The board shall, by January 1, 1981, promulgate rules in conformity with this chapter and the provisions of chapter 15, establishing:

(1) the governmental unit which shall be responsible for environmental review of a proposed action;

(2) the form and content of environmental assessment worksheets;

(3) a scoping process in conformance with subdivision 2a, clause (e);

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(4) a procedure for identifying during the scoping process the permits necessary for a proposed action and a process for coordinating review of appropriate permits with the preparation of the environmental impact statement;

(5) a standard format for environmental impact statements;

(6) standards for determining the alternatives to be discussed in an environmental impact statement;

(7) alternative forms of environmental review which are acceptable pursuant to subdivision 4a;

(8) a model ordinance which may be adopted and implemented by local governmental units in lieu of the environmental impact statement process required by this section, providing for an alternative form of environmental review where an action does not require a state agency permit and is consistent with an applicable comprehensive plan. The model ordinance shall provide for adequate consideration of appropriate alternatives, and shall ensure that decisions are made in accordance with the policies and purposes of Laws 1980, chapter 447;

(9) procedures to reduce paperwork and delay through intergovernmental cooperation and the elimination of unnecessary duplication of environmental reviews;

(10) procedures for expediting the selection of consultants by the governmental unit responsible for the preparation of an environmental impact statement; and

(11) any additional rules which are reasonably necessary to carry out the requirements of this section.

Subd. 6. **Prohibitions.** No state action significantly affecting the quality of the environment shall be allowed, nor shall any permit for natural resources management and development be granted, where such action or permit has caused or is likely to cause pollution, impairment, or destruction of the air, water, land or other natural resources located within the state, so long as there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety, and welfare and the state's paramount concern for the protection of its air, water, land and other natural resources from pollution, impairment, or destruction. Economic considerations alone shall not justify such conduct.

Subd. 6a. **Comments.** Prior to the preparation of a final environmental impact statement, the governmental unit responsible for the statement shall consult with and request the comments of every governmental office which has jurisdiction by law or special expertise with respect to any environmental effect involved. Copies of the drafts of such statements and the comments and views of the appropriate offices shall be made available to the public. The final detailed environmental impact statement and the comments received thereon shall precede final decisions on the proposed action and shall accompany the proposal through an administrative review process.

Subd. 7. **Required consideration.** Regardless of whether a detailed written environmental impact statement is required by the board to accompany an application for a permit for natural resources management and development, or a recommendation, project, or program for action, officials responsible for issuance of aforementioned permits or for other activities described herein shall give due consideration to the provisions of Laws 1973, chapter 412, as set forth in section 116D.03, in the execution of their duties.

Subd. 8. **Early notice.** In order to facilitate coordination of environmental decision making

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and the timely review of agency decisions, the board shall establish by rule a procedure for early notice to the board and the public of natural resource management and development permit applications and other impending state actions having significant environmental effects.

Subd. 9. **Modification before final decision.** Prior to the final decision upon any state project or action significantly affecting the environment or for which an environmental impact statement is required, or within ten days thereafter, the board may delay implementation of the action or project by notice to the agency or department and to interested parties. Thereafter, within 45 days of such notice, the board may reverse or modify the decisions or proposal where it finds, upon notice and hearing, that the action or project is inconsistent with the policy and standards of sections 116D.01 to 116D.06. Any aggrieved party may seek judicial review pursuant to chapter 14.

Subd. 10. **Review.** A person aggrieved by a final decision on the need for an environmental assessment worksheet, the need for an environmental impact statement, or the adequacy of an environmental impact statement is entitled to judicial review of the decision under sections 14.63 to 14.68. A petition for a writ of certiorari by an aggrieved person for judicial review under sections 14.63 to 14.68 must be filed with the Court of Appeals and served on the responsible governmental unit not more than 30 days after the party receives the final decision and order of the responsible governmental unit. Proceedings for review under this section must be instituted by serving a petition for a writ of certiorari personally or by certified mail upon the responsible governmental unit and by promptly filing the proof of service in the Office of the Clerk of the Appellate Courts and the matter will proceed in the manner provided by the Rules of Civil Appellate Procedure. A copy of the petition must be provided to the attorney general at the time of service. Copies of the writ must be served, personally or by certified mail, upon the responsible governmental unit and the project proposer. The filing of the writ of certiorari does not stay the enforcement of any other governmental action, provided that the responsible governmental unit may stay enforcement or the Court of Appeals may order a stay upon terms it deems proper. A bond may be required under section 562.02 unless at the time of hearing on the application for the bond the petitioner-relator has shown that the claim is likely to succeed on the merits. The board may initiate judicial review of decisions referred to herein and the board or a project proposer may intervene as of right in any proceeding brought under this subdivision.

Subd. 11. **Failure to act.** If the board or governmental unit which is required to act within a time period specified in this section fails to so act, any person may seek an order of the district court requiring the board or governmental unit to immediately take the action mandated by subdivisions 2a and 3a.

Subd. 12. **Impact analysis; large electric power facilities.** No attempt need be made to tabulate, analyze or otherwise evaluate the potential impact of elections made pursuant to section 216E.12, subdivision 4, in environmental impact statements done for large electric power facilities. It is sufficient for purposes of this chapter that such statements note the existence of section 216E.12, subdivision 4.

Subd. 13. **Enforcement.** This section may be enforced by injunction, action to compel performance, or other appropriate action in the district court of the county where the violation takes place. Upon the request of the board or the chair of the board, the attorney general may bring an action under this subdivision.

Subd. 14. **Customized environmental assessment worksheet forms; electronic**

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submission. (a) The commissioners of natural resources and the Pollution Control Agency and the board shall periodically review mandatory environmental assessment worksheet categories under rules adopted under this section, and other project types that are frequently subject to environmental review, and develop customized environmental assessment worksheet forms for the category or project type. The forms must include specific questions that focus on key environmental issues for the category or project type. In assessing categories and project types and developing forms, the board shall seek the input of governmental units that are frequently responsible for the preparation of a worksheet for the particular category or project type. The commissioners and the board shall also seek input from the general public on the development of customized forms. The commissioners and board shall make the customized forms available online.

(b) The commissioners of natural resources and the Pollution Control Agency shall allow for the electronic submission of environmental assessment worksheets and permits.

History: *1973 c 412 s 4; 1975 c 204 s 74; 1975 c 271 s 6; 1980 c 447 s 1-8; 1980 c 614 s 88; 1982 c 424 s 130; 1985 c 248 s 70; 1986 c 399 art 2 s 1; 1986 c 400 s 1; 1986 c 444; 1Sp1986 c 3 art 2 s 41; 1988 c 501 s 3,4; 1989 c 209 art 2 s 1; 1990 c 391 art 8 s 27; 1992 c 464 art 2 s 1; 2003 c 128 art 3 s 40; 2004 c 217 s 1; 2010 c 361 art 4 s 65,66; 2011 c 4 s 5-8; 2011 c 107 s 87*

116D.045 ENVIRONMENTAL IMPACT STATEMENTS; COSTS.

Subdivision 1. **Assessment.** The board shall by rule adopt procedures to assess the proposer of a specific action for reasonable costs of preparing, reviewing, and distributing the environmental impact statement. The costs shall be determined by the responsible governmental unit pursuant to the rules promulgated by the board.

Subd. 2. **Modification.** In the event of a disagreement between the proposer of the action and the responsible governmental unit over the cost of an environmental impact statement, the responsible governmental unit shall consult with the board, which may modify the cost or determine that the cost assessed by the responsible governmental unit is reasonable.

Subd. 3. **Use of assessment.** As necessary, the responsible governmental unit shall assess the project proposer for reasonable costs that the responsible governmental unit incurs in preparing, reviewing, and distributing the environmental impact statement and the proposer shall pay the assessed cost to the responsible governmental unit. Money received under this subdivision by a responsible governmental unit may be retained by the unit for the same purposes. Money received by a state agency must be credited to a special account and is appropriated to the agency to cover the assessed costs incurred.

Subd. 4. **Partial cost to be paid.** No responsible governmental unit shall commence the preparation of an environmental impact statement until at least one-half of the assessed cost of the environmental impact statement is paid pursuant to subdivision 3. Other laws notwithstanding, no state agency may issue any permits for the construction or operation of a project for which an environmental impact statement is prepared until the assessed cost for the environmental impact statement has been paid in full.

Subd. 5. [Repealed, 1988 c 501 s 9]

History: *1976 c 344 s 3; 1988 c 501 s 5-8; 1990 c 594 art 1 s 55; 2011 c 4 s 9,10*

116D.05 [Repealed, 1984 c 655 art 1 s 20]

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116D.06 EFFECT OF EXISTING OBLIGATIONS.

Subdivision 1. **Specific statutory obligations.** Nothing in sections 116D.03 to 116D.045 shall in any way affect the specific statutory obligations of any state agency to (1) comply with criteria or standards of environmental quality, (2) coordinate or consult with any federal or state agency, or (3) act or refrain from acting contingent upon the recommendations or certification of any other state agency or federal agency.

Subd. 2. **Supplementary.** The policies and goals set forth in sections 116D.01 to 116D.06 are supplementary to those set forth in existing authorizations of state agencies.

History: *1973 c 412 s 6; 1984 c 655 art 1 s 21*

116D.07 [Repealed, 1991 c 303 s 9]

116D.10 ENERGY AND ENVIRONMENTAL STRATEGY REPORT.

On or before January 1 of each even-numbered year, the governor shall transmit to the energy and environment and natural resources committees of the legislature a concise, comprehensive written report on the energy and environmental strategy of the state.

The report must be sufficiently comprehensive to assist the legislature in allocating funds to support all of the policies, plans, and programs of the state related to energy and the environment, and specifically must include:

(1) a concise, comprehensive discussion of state, and, as applicable, national and global energy and environmental problems, including but not limited to: indoor and outdoor air pollution, water pollution, atmospheric changes, stratospheric ozone depletion, damage to terrestrial systems, deforestation, regulation of pesticides and toxic substances, solid and hazardous waste management, ecosystem protection (wetlands, estuaries, groundwater, Lake Superior and the inland lakes and rivers), population growth, preservation of animal and plant species, soil erosion, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources;

(2) a concise, comprehensive description and assessment of the policies and programs of all departments and agencies of the state responsible for issues listed in clause (1), including a concise discussion of the long-term objectives of such policies and programs; existing and proposed funding levels; the impact of each policy and program on pollution prevention, emergency preparedness and response, risk assessment, land management, technology transfer, and matters relating to the availability and conservation of crude oil and of refined petroleum product and other energy sources; and the impact of each on relations with the other states, the federal government, membership in national organizations, and funding of programs for state environmental protection and energy issues;

(3) a concise description and assessment of the integration and coordination of policies, plans, environmental programs, and energy programs of the state with the policies and programs of the federal government, the environmental and energy policies and programs of the other states, and the environmental and energy policies and programs of major state and national nonprofit conservation organizations;

(4) a concise description and assessment of all efforts by the state to integrate effectively its energy and environmental strategy with:

(i) the science and technology strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all environmental and energy research

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and development supported by the federal government and of all efforts at regional, national, and international cooperation on environmental and energy research and development;

(ii) the national energy policies of the federal government, including objectives, priorities, timing, funding details, and expected results of all efforts supported by the federal government aimed at reducing energy demand, improving energy efficiency and conservation, fuel-switching, using safe nuclear power reactors, employing clean coal technology, promoting renewable energy sources, promoting research and possible use of alternative fuels, promoting biomass research, promoting energy research and development in general, and advancing regional, national, and international energy cooperation;

(iii) the national environmental education strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all domestic and international education efforts supported by the United States to improve both public participation and awareness of the need for environmental protection;

(iv) the technology transfer strategy of the federal government, including objectives, priorities, timing, funding details, and expected results of all domestic and international environmental and energy technology transfer efforts to foster collaboration and cooperation between federal agencies and state and local governments, universities, nonprofit conservation organizations, and private industry in order to improve the competitiveness of the state and the nation in the world marketplace and promote environmental and energy technology advancement; and

(v) the national security strategy of the federal government, including objectives, priorities, timing, funding, and expected results of the national security programs to be most compatible with requirements for environmental preservation and a national energy policy, while accomplishing missions essential to national security;

(5) a concise assessment of the overall effectiveness of the energy and environmental strategy of the state, including a concise description of the organizational processes used to provide a body of energy and environmental information and to evaluate the results of energy and environmental programs; the use of statistical methods; the degree to which the strategy is long term, comprehensive, integrated, flexible, and oriented toward achieving broad consensus in the state, the nation, and abroad; and recommendations on the ways in which the legislature can assist the governor in making the strategy more effective;

(6) specific two-year, five-year and, as appropriate, longer-term goals for the implementation of the energy and environmental strategy of the state; and

(7) such other pertinent information as may be necessary to provide information to the legislature on matters relating to the overall energy and environmental strategy of the state and to develop state programs coordinated with those formulated on a national and international level.

History: *1991 c 303 s 6*

116D.11 REPORT PREPARATION.

Subdivision 1. **Agency responsibility.** Each department or agency of the state, as designated by the governor, shall assist in the preparation of the strategy report. Each designated department or agency shall prepare a preliminary strategy report relating to those programs or policies over which the department or agency has jurisdiction. Each preliminary strategy report shall:

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(1) describe concisely the existing policies and programs of the department or agency as they relate to the issues listed in section 116D.10, clause (1);

(2) describe concisely and evaluate the long-term objectives of the department or agency as they relate to the issues listed in section 116D.10, clause (1);

(3) identify and make proposals about the development of department or agency financial management budgets as they relate to the issues listed in section 116D.10, clause (1);

(4) describe concisely the strategy and procedure of the department or agency to recruit, select, and train personnel to carry out department or agency goals and functions as they relate to the issues listed in section 116D.10, clause (1);

(5) identify and make proposals to eliminate duplicative and unnecessary programs or systems, including encouraging departments and agencies to share systems or programs that have sufficient capacity to perform the functions needed as they relate to the issues listed in section 116D.10, clause (1); and

(6) establish two-year quantitative goals for policy implementation.

Subd. 2. **Primary responsibility.** The Environmental Quality Board shall have the primary responsibility for preparing the energy and environmental strategy report of the state, as required by section 116D.10. The board shall assemble all preliminary reports prepared pursuant to subdivision 1 under a timetable established by the board and shall use the preliminary reports in the preparation of the draft energy and environmental strategy report of the state. Each department or agency designated by the governor to prepare a preliminary strategy report shall submit a copy of the preliminary strategy report to the governor and to the board at the same time.

Subd. 3. **Report to governor.** On or before October 1 of each odd-numbered year, the Environmental Quality Board shall transmit to the governor a draft of the written report on the energy and environmental strategy of the state. The governor may change the report and may request additional information or data from any department or agency of the state responsible for issues listed in section 116D.10, clause (1). Any such requested additional information or data shall be prepared and submitted promptly to the governor.

Subd. 4. [Repealed, 1997 c 7 art 2 s 67]

History: *1991 c 303 s 7*

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4410.0200 DEFINITIONS AND ABBREVIATIONS.

Subpart 1. **Scope.** For the purpose of parts 4410.0200 to 4410.6500, the following terms and abbreviations have the meanings given them, unless otherwise provided.

Subp. 1a. [Repealed, 31 SR 539]

Subp. 2. **Agricultural land.** "Agricultural land" means land that is or has, within the last five years, been devoted to the production of livestock, dairy animals, dairy products, poultry and poultry products, fur bearing animals, horticultural and nursery stock, fruit, vegetables, forage, grains, or bees and apiary products. Wetlands, naturally vegetated lands, and woodlands contiguous to or surrounded by agricultural land shall be considered agricultural lands if under the same ownership or management as that of the agricultural land during the period of agricultural use.

Subp. 3. **Animal units.** "Animal units" has the meaning given in part 7020.0300, subpart 5.

Subp. 4. **Approval.** "Approval" means a decision by a unit of government to issue a permit or to otherwise authorize the commencement of a proposed project.

Subp. 5. **Attached units.** "Attached units" means in groups of four or more units each of which shares one or more common walls with another unit.

Subp. 6. **Biomass sources.** "Biomass sources" means animal waste and all forms of vegetation, natural or cultivated.

Subp. 6a. **Capacity.** "Capacity," as used in parts 4410.4300, subpart 17, and 4410.4400, subpart 13, means the maximum daily operational input volume a facility is designed to process on a continuing basis.

Subp. 7. **Class I dam.** "Class I dam" has the meaning given in part 6115.0340.

Subp. 8. **Class II dam.** "Class II dam" has the meaning given in part 6115.0340.

Subp. 9. **Collector roadway.** "Collector roadway" means a road that provides access to minor arterial roadways from local streets and adjacent land uses.

Subp. 9a. **Common open space.** "Common open space" means a portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. Common open space does not include the area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings when the development is designed using clustered compact lots or clustered units or sites to create and preserve green space, such as in a conservation subdivision, planned unit development, or resort.

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Subp. 9b. **Compost facility.** "Compost facility" means a facility used to compost or co-compost solid waste, including:

A. structures and processing equipment used to control drainage or collect and treat leachate; and

B. storage areas for incoming waste, the final product, and residuals resulting from the composting process.

Subp. 9c. **Connected actions.** Two projects are "connected actions" if a responsible governmental unit determines they are related in any of the following ways:

A. one project would directly induce the other;

B. one project is a prerequisite for the other and the prerequisite project is not justified by itself; or

C. neither project is justified by itself.

Subp. 10. **Construction.** "Construction" means any activity that directly alters the environment. It includes preparation of land or fabrication of facilities. It does not include surveying or mapping.

Subp. 11. **Cumulative impact.** "Cumulative impact" means the impact on the environment that results from incremental effects of the project in addition to other past, present, and reasonably foreseeable future projects regardless of what person undertakes the other projects. Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.

Subp. 11a. **Cumulative potential effects.** "Cumulative potential effects" means the effect on the environment that results from the incremental effects of a project in addition to other projects in the environmentally relevant area that might reasonably be expected to affect the same environmental resources, including future projects actually planned or for which a basis of expectation has been laid, regardless of what person undertakes the other projects or what jurisdictions have authority over the projects. Significant cumulative potential effects can result from individually minor projects taking place over a period of time. In analyzing the contributions of past projects to cumulative potential effects, it is sufficient to consider the current aggregate effects of past actions. It is not required to list or analyze the impacts of individual past actions, unless such information is necessary to describe the cumulative potential effects. In determining if a basis of expectation has been laid for a project, an RGU must determine whether a project is reasonably likely to occur and, if so, whether sufficiently detailed information is available about the project to contribute to the understanding of cumulative potential effects. In making these determinations, the RGU must consider: whether any applications for permits have been filed with any units of government; whether detailed plans and specifications have been prepared for the project; whether future development is indicated by adopted

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comprehensive plans or zoning or other ordinances; whether future development is indicated by historic or forecasted trends; and any other factors determined to be relevant by the RGU.

Subp. 12. **Day.** "Day" in counting any period of time shall not include the day of the event from which the designated period of time begins. The last day of the period counted shall be included, unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day that is not a Saturday, a Sunday, or a legal holiday. When the period of time prescribed or allowed is 15 days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the counting of days.

Subp. 13. [Repealed by amendment, L 1983 c 289 s 115 subd 1]

Subp. 14. **Disposal facility.** "Disposal facility" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 10.

Subp. 15. **DNR.** "DNR" means Department of Natural Resources.

Subp. 16. **DOT.** "DOT" means Department of Transportation.

Subp. 17. **EAW.** "EAW" means environmental assessment worksheet.

Subp. 18. **EIS.** "EIS" means environmental impact statement.

Subp. 19. [Repealed, 21 SR 1458]

Subp. 20. [Repealed, 21 SR 1458]

Subp. 21. [Repealed, 21 SR 1458]

Subp. 22. **Emergency.** "Emergency" means a sudden unexpected occurrence, natural or caused by humans, involving a clear and imminent danger, demanding immediate action to prevent or mitigate loss of, or damage to, life, health, property, or essential public services. "Emergency" includes fire, flood, windstorm, riot, accident, or sabotage.

Subp. 22a. **Energy recovery facility.** "Energy recovery facility" means a facility used to capture the heat value of solid waste for conversion to steam, electricity, or immediate heat by direct combustion or by first converting the solid waste into an intermediate fuel product. It does not include facilities that produce, but do not burn, refuse-derived fuel.

Subp. 23. **Environment.** "Environment" means physical conditions existing in the area that may be affected by a proposed project. It includes land, air, water, minerals, flora, fauna, ambient noise, energy resources, and artifacts or natural features of historic, geologic, or aesthetic significance.

Subp. 24. **Environmental assessment worksheet.** "Environmental assessment worksheet" means a brief document which is designed to set out the basic facts necessary

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to determine whether an EIS is required for a proposed project or to initiate the scoping process for an EIS.

Subp. 25. **Environmental document.** "Environmental document" means EAW, draft EIS, final EIS, substitute review document, and other environmental analysis documents.

Subp. 26. **Environmental impact statement.** "Environmental impact statement" means a detailed written statement as required by Minnesota Statutes, section 116D.04, subdivision 2a.

Subp. 27. **EQB.** "EQB" means Environmental Quality Board.

Subp. 28. **Expansion.** "Expansion" means an extension of the capability of a facility to produce or operate beyond its existing capacity. It excludes repairs or renovations that do not increase the capacity of the facility.

Subp. 29. **First class city.** "First class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 30. **Floodplain.** "Floodplain" has the meaning given in Minnesota Statutes, section 103F.111.

Subp. 31. [Repealed, 21 SR 1458]

Subp. 32. **Fourth class city.** "Fourth class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 33. **Governmental action.** "Governmental action" means activities including projects wholly or partially conducted, permitted, assisted, financed, regulated, or approved by governmental units, including the federal government.

Subp. 34. **Governmental unit.** "Governmental unit" means any state agency and any general or special purpose unit of government in the state, including watershed districts organized under Minnesota Statutes, chapter 103D, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council, but not including courts, school districts, and regional development commissions.

Subp. 35. **Gross floor space.** "Gross floor space" means the total square footage of all floors but does not include parking lots or approach areas.

Subp. 35a. **Genetically engineered organism.** "Genetically engineered organism" has the meaning given in part 4420.0010, subpart 14.

Subp. 35b. **Genetic engineering.** "Genetic engineering" has the meaning given in part 4420.0010, subpart 15.

Subp. 36. **Ground area.** "Ground area" means the total surface area of land that would be converted to an impervious surface by the proposed project. It includes

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structures, parking lots, approaches, service facilities, appurtenant structures, and recreational facilities.

Subp. 37. **Hazardous waste.** "Hazardous waste" has the meaning given in parts 7045.0129 to 7045.0141.

Subp. 38. **High voltage transmission line.** "High voltage transmission line" has the meaning given in part 7849.1100.

Subp. 39. **Highway safety improvement project.** "Highway safety improvement project" means a project designed to improve safety of highway locations that have been identified as hazardous or potentially hazardous. Projects in this category include the removal, relocation, remodeling, or shielding of roadside hazards; installation or replacement of traffic signals; and the geometric correction of identified high accident locations requiring the acquisition of minimal amounts of right-of-way.

Subp. 40. **HVTL.** "HVTL" means high voltage transmission line.

Subp. 40a. **Incinerator.** "Incinerator" means any furnace used in the process of burning solid waste for the purpose of reducing the volume of waste by removing combustible matter.

Subp. 41. **Large electric power generating plant; LEPGP.** "Large electric power generating plant" or "LEPGP" has the meaning given in part 7849.1100.

Subp. 42. **LEPGP.** "LEPGP" means large electric power generating plant.

Subp. 42a. **Light industrial facility.** "Light industrial facility" means a subcategory of industrial land use with a primary function other than manufacturing and less than 500 employees.

Subp. 43. **Local governmental unit.** "Local governmental unit" means any unit of government other than the state or a state agency or the federal government or a federal agency. It includes watershed districts established pursuant to Minnesota Statutes, chapter 103D, counties, towns, cities, port authorities, housing authorities, and the Metropolitan Council. It does not include courts, school districts, and regional development commissions.

Subp. 44. **Marina.** "Marina" has the meaning given in part 6115.0170.

Subp. 45. **MDA.** "MDA" means Minnesota Department of Agriculture.

Subp. 46. **MDH.** "MDH" means Minnesota Department of Health.

Subp. 47. **Mineral deposit evaluation.** "Mineral deposit evaluation" has the meaning given in Minnesota Statutes, section 103I.605, subdivision 2.

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Subp. 48. **Minnesota River Project Riverbend area.** "Minnesota River Project Riverbend area" means an area subject to the comprehensive land use plan of the Project Riverbend Board established under Minnesota Statutes, chapter 103F.

Subp. 49. **Mississippi headwaters area.** "Mississippi headwaters area" means an area subject to the comprehensive land use plan of the Mississippi River Headwaters Board established under Minnesota Statutes, chapter 103F.

Subp. 50. **Mississippi headwaters plan.** "Mississippi headwaters plan" means the comprehensive land use plan of the Mississippi River Headwaters Board established under Minnesota Statutes, chapter 103F.

Subp. 51. **Mitigation.** "Mitigation" means:

A. avoiding impacts altogether by not undertaking a certain project or parts of a project;

B. minimizing impacts by limiting the degree of magnitude of a project;

C. rectifying impacts by repairing, rehabilitating, or restoring the affected environment;

D. reducing or eliminating impacts over time by preservation and maintenance operations during the life of the project;

E. compensating for impacts by replacing or providing substitute resources or environments; or

F. reducing or avoiding impacts by implementation of pollution prevention measures.

Subp. 52. **Mixed municipal solid waste.** "Mixed municipal solid waste" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 21.

Subp. 53. **Natural watercourse.** "Natural watercourse" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 13.

Subp. 54. **Negative declaration.** "Negative declaration" means a written statement by the RGU that a proposed project does not require the preparation of an EIS.

Subp. 55. **Open space land use.** "Open space land use" means a use particularly oriented to and using the outdoor character of an area including agriculture, campgrounds, parks, and recreation areas.

Subp. 55a. **Ordinary high water level.** "Ordinary high water level" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 14.

Subp. 55b. **Organism.** "Organism" has the meaning given in part 4420.0010, subpart 18.

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Subp. 56. **PCA.** "PCA" means Minnesota Pollution Control Agency.

Subp. 56a. **PCB.** "PCB" has the meaning given in Minnesota Statutes, section 116.36, subdivision 4.

Subp. 57. **Permanent conversion.** "Permanent conversion" means a change in use of agricultural, naturally vegetated, or forest lands that impairs the ability to convert the land back to its agricultural, natural, or forest capacity in the future. It does not include changes in management practices, such as conversion to parklands, open space, or natural areas.

Subp. 58. **Permit.** "Permit" means a permit, lease, license, certificate, or other entitlement for use or permission to act that may be granted or issued by a governmental unit, or the commitment to issue or the issuance of a discretionary contract, grant, subsidy, loan, or other form of financial assistance, by a governmental unit.

Subp. 59. **Person.** "Person" means any natural person, state, municipality, or other governmental unit, political subdivision, other agency or instrumentality, or public or private corporation, partnership, firm, association, or other organization, receiver, trustee, assignee, agent, or other legal representative of the foregoing, and any other entity.

Subp. 60. **Phased action.** "Phased action" means two or more projects to be undertaken by the same proposer that a RGU determines:

A. will have environmental effects on the same geographic area; and

B. are substantially certain to be undertaken sequentially over a limited period of time.

Subp. 61. **Positive declaration.** "Positive declaration" means a written statement by the RGU that a proposed project requires the preparation of an EIS.

Subp. 62. **Potentially permanent.** "Potentially permanent" means a dwelling for human habitation that is permanently affixed to the ground or commonly used as a place of residence. It includes houses, seasonal and year round cabins, and mobile homes.

Subp. 63. **Preparation notice.** "Preparation notice" means a written notice issued by the RGU stating that an EIS will be prepared for a proposed project.

Subp. 64. **Processing.** "Processing," as used in parts 4410.4300, subpart 16, items B and C, and 4410.4400, subpart 12, item C, has the meaning given in Minnesota Statutes, section 115A.03, subdivision 25.

Subp. 65. **Project.** "Project" means a governmental action, the results of which would cause physical manipulation of the environment, directly or indirectly. The determination of whether a project requires environmental documents shall be made by reference to the physical activity to be undertaken and not to the governmental process of approving the project.

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Subp. 66. [Repealed, 13 SR 1437]

Subp. 67. **Project Riverbend Plan.** "Project Riverbend Plan" means the comprehensive land use plan of the Project Riverbend Board established under Minnesota Statutes, chapter 103F.

Subp. 68. **Proposer.** "Proposer" means the person or governmental unit that proposes to undertake or to direct others to undertake a project.

Subp. 69. **Public waters.** "Public waters" has the meaning given in Minnesota Statutes, section 103G.005.

Subp. 70. **Public waters wetland.** "Public waters wetland" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 15a.

Subp. 70a. **PUC.** "PUC" means the Minnesota Public Utilities Commission.

Subp. 71. **Recreational development.** "Recreational development" means facilities for temporary residence while in pursuit of leisure activities. Recreational development includes, but is not limited to, recreational vehicle parks, rental or owned campgrounds, and condominium campgrounds.

Subp. 71a. **Refuse-derived fuel.** "Refuse-derived fuel" means the product resulting from techniques or processes used to prepare solid waste by shredding, sorting, or compacting for use as an energy source.

Subp. 71b. **Release.** "Release" has the meaning given in part 4420.0010, subpart 19.

Subp. 72. [Repealed, 13 SR 1437]

Subp. 73. **Resource recovery.** "Resource recovery" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 27.

Subp. 74. [Repealed, 13 SR 1437]

Subp. 75. **Responsible governmental unit.** "Responsible governmental unit" means the governmental unit that is responsible for preparation and review of environmental documents.

Subp. 76. **RGU.** "RGU" means responsible governmental unit.

Subp. 77. **Scientific and natural area.** "Scientific and natural area" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 5.

Subp. 78. **Scram mining operation.** "Scram mining operation" has the meaning given in part 6130.0100.

Subp. 79. **Second class city.** "Second class city" has the meaning given in Minnesota Statutes, section 410.01.

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Subp. 79a. **Sensitive shoreland area.** "Sensitive shoreland area" means shoreland designated as a special protection district pursuant to part 6120.3200 or shoreland riparian to any of the following types of public waters:

A. lakes or bays of lakes classified as natural environment pursuant to part 6120.3000;

B. trout lakes and streams designated pursuant to part 6264.0050;

C. wildlife lakes designated pursuant to Minnesota Statutes, section 97A.101, subdivision 2;

D. migratory waterfowl feeding and resting lakes designated pursuant to Minnesota Statutes, section 97A.095, subdivision 2; or

E. outstanding resource value waters designated pursuant to part 7050.0180.

Subp. 80. **Sewage collection system.** "Sewage collection system" means a piping or conveyance system that conveys wastewater to a wastewater treatment plant.

Subp. 81. **Sewered area.** "Sewered area" means an area:

A. that is serviced by a wastewater treatment facility or a centralized septic system servicing the entire development; or

B. that is located within the boundaries of the metropolitan urban service area, as defined pursuant to the development framework of the Metropolitan Council.

Subp. 81a. **Shore impact zone.** "Shore impact zone" has the meaning given in part 6120.2500, or in a local ordinance, if the ordinance specifies a greater size for the zone.

Subp. 82. **Shoreland.** "Shoreland" has the meaning given in part 6120.2500, subpart 15, of the Department of Natural Resources.

Subp. 83. [Repealed, 21 SR 1458]

Subp. 84. **Solid waste.** "Solid waste" has the meaning given in Minnesota Statutes, section 116.06, subdivision 22.

Subp. 84a. **Sports or entertainment facility.** "Sports or entertainment facility" means a facility intended for the presentation of sports events and various forms of entertainment or amusement. Examples include sports stadiums or arenas, racetracks, concert halls or amphitheaters, theaters, facilities for pageants or festivals, fairgrounds, amusement parks, and zoological gardens.

Subp. 85. **State trail corridor.** "State trail corridor" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 4.

Subp. 86. **Storage.** "Storage," as used in part 4410.4300, subpart 16, item D, has the meaning given in Code of Federal Regulations 1980, title 40, section 260.10 (a)(66).

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Subp. 87. **Third class city.** "Third class city" has the meaning given in Minnesota Statutes, section 410.01.

Subp. 88. **Tiering.** "Tiering" means incorporating by reference the discussion of an issue from a broader or more general EIS. An example of tiering is the incorporation of a program or policy statement into a subsequent environmental document of a more narrow scope, such as a site-specific EIS.

Subp. 89. **Transfer station.** "Transfer station" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 33.

Subp. 89a. **Warehousing facility.** "Warehousing facility" means a subcategory of industrial-commercial land use that has as its primary function the storage of goods or materials. Warehousing facilities may include other uses, such as office space or sales, in minor amounts.

Subp. 90. **Waste.** "Waste" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 34.

Subp. 91. **Waste facility.** "Waste facility" has the meaning given in Minnesota Statutes, section 115A.03, subdivision 35.

Subp. 92. **Wastewater treatment facility.** "Wastewater treatment facility" means a facility for the treatment of municipal or industrial waste water.

Subp. 92a. **Water-related land use management district.** "Water-related land use management district" includes:

A. shoreland areas;

B. floodplains;

C. wild and scenic rivers districts;

D. areas subject to the comprehensive land use plan of the Project Riverbend Board under Minnesota Statutes, chapter 103F; and

E. areas subject to the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 103F.

Subp. 92b. **Water-related land use management district ordinance or plan, approved.** "Water-related land use management district ordinance or plan, approved" means:

A. a state-approved shoreland ordinance;

B. a state-approved floodplain ordinance;

C. a state-approved wild and scenic rivers district ordinance;

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D. the comprehensive land use plan of the Project Riverbend Board under Minnesota Statutes, chapter 103F; or

E. the comprehensive land use plan of the Mississippi River Headwaters Board under Minnesota Statutes, chapter 103F.

Subp. 92c. **Waters of the state.** "Waters of the state" has the meaning given in Minnesota Statutes, section 103G.005, subdivision 17.

Subp. 93. **Wetland.** "Wetland" has the meaning given in U.S. Fish and Wildlife Service Circular No. 39 (1971 edition).

Subp. 94. **Wild and scenic rivers district.** "Wild and scenic rivers district" means a river or a segment of the river and its adjacent lands that possess outstanding scenic, recreational, natural, historical, scientific, or similar values and has been designated by the commissioner of the DNR or by the legislature of the state of Minnesota for inclusion within the Minnesota wild and scenic rivers system pursuant to Minnesota Statutes, sections 103F.301 to 103F.345, or by congress for inclusion within the national wild and scenic rivers system pursuant to United States Code 1976, title 16, sections 1274 to 1286.

Subp. 95. **Wild and scenic rivers district ordinances, state approved.** "Wild and scenic rivers district ordinances, state approved" means a local governmental unit ordinance implementing the state management plan for the district. The ordinance must be approved by the commissioner of the DNR pursuant to parts 6105.0220 to 6105.0250 or 6105.0500 to 6105.0550 of the Department of Natural Resources.

Subp. 96. **Wilderness area.** "Wilderness area" means an outdoor recreation system unit designated pursuant to Minnesota Statutes, section 86A.05, subdivision 6.

Statutory Authority: *MS s 116C.94; 116D.04; 116D.045*

History: *L 1983 c 289 s 115; 11 SR 714; 13 SR 1437; 17 SR 139; 17 SR 1279; 21 SR 1458; 28 SR 951; 31 SR 539; 31 SR 646; 34 SR 721*

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4410.0300 AUTHORITY, SCOPE, PURPOSE, AND OBJECTIVES.

Subpart 1. **Authority.** Parts 4410.0200 to 4410.6500 are issued under authority granted in Minnesota Statutes, chapter 116D, to implement the environmental review procedures established by the Minnesota Environmental Policy Act.

Subp. 2. **Scope.** Parts 4410.0200 to 4410.6500 apply to all governmental actions. They shall apply to projects for which environmental review has not been initiated prior to September 28, 1982. For any project for which environmental review has been initiated by submission of a citizens petition, environmental assessment worksheet, environmental impact statement preparation notice, or environmental impact statement to the EQB prior to September 28, 1982, all governmental decisions that may be required for that project shall be acted upon in accord with prior rules.

Subp. 3. **Purpose.** The Minnesota Environmental Policy Act recognizes that the restoration and maintenance of environmental quality is critically important to our welfare. The act also recognizes that human activity has a profound and often adverse impact on the environment.

A first step in achieving a more harmonious relationship between human activity and the environment is understanding the impact which a proposed project will have on the environment. The purpose of parts 4410.0200 to 4410.6500 is to aid in providing that understanding through the preparation and public review of environmental documents.

Environmental documents shall contain information that addresses the significant environmental issues of a proposed action. This information shall be available to governmental units and citizens early in the decision making process.

Environmental documents shall not be used to justify a decision, nor shall indications of adverse environmental effects necessarily require that a project be disapproved. Environmental documents shall be used as guides in issuing, amending, and denying permits and carrying out other responsibilities of governmental units to avoid or minimize adverse environmental effects and to restore and enhance environmental quality.

Subp. 4. **Objectives.** The process created by parts 4410.0200 to 4410.6500 is designed to:

A. provide usable information to the project proposer, governmental decision makers and the public concerning the primary environmental effects of a proposed project;

B. provide the public with systematic access to decision makers, which will help to maintain public awareness of environmental concerns and encourage accountability in public and private decision making;

C. delegate authority and responsibility for environmental review to the governmental unit most closely involved in the project;

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D. reduce delay and uncertainty in the environmental review process; and

E. eliminate duplication.

Statutory Authority: *MS s 116D.04*

Posted: *November 30, 2009*

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4410.1000 PROJECTS REQUIRING AN EAW.

Subpart 1. **Purpose of an EAW.** The EAW is a brief document prepared in worksheet format which is designed to rapidly assess the environmental effects which may be associated with a proposed project. The EAW serves primarily to:

A. aid in the determination of whether an EIS is needed for a proposed project; and

B. serve as a basis to begin the scoping process for an EIS.

Subp. 2. **Mandatory EAW categories.** An EAW shall be prepared for any project that meets or exceeds the thresholds of any of the EAW categories listed in part 4410.4300 or any of the EIS categories listed in part 4410.4400.

Subp. 3. **Discretionary EAWs.** An EAW shall be prepared:

A. when a project is not exempt under part 4410.4600 and when a governmental unit with approval authority over the proposed project determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects;

B. when a project is not exempt under part 4410.4600 and when a governmental unit with approval authority over a proposed project determines pursuant to the petition process set forth in part 4410.1100 that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects;

C. whenever the EQB determines that, because of the nature or location of a proposed project, the project may have the potential for significant environmental effects (this item shall not be applicable to a project exempt under part 4410.4600 or to a project for which a governmental unit, with approval authority over the project, has made a prior negative or positive determination concerning the need for an EAW concerning the project); or

D. when the proposer wishes to initiate environmental review to determine if a project has the potential for significant environmental effects.

Subp. 4. **Connected actions and phased actions.** Multiple projects and multiple stages of a single project that are connected actions or phased actions must be considered in total when determining the need for an EAW, preparing the EAW, and determining the need for an EIS.

In connected actions and phased actions where it is not possible to adequately address all the project components or stages at the time of the initial EAW, a new EAW must be completed before approval and construction of each subsequent project component or stage. Each EAW must briefly describe the past and future stages or components to which the subject of the present EAW is related.

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For proposed projects such as highways, streets, pipelines, utility lines, or systems where the proposed project is related to a large existing or planned network, for which a governmental unit has determined environmental review is needed, the RGU shall treat the present proposal as the total proposal or select only some of the future elements for present consideration in the threshold determination and EAW. These selections must be logical in relation to the design of the total system or network and must not be made merely to divide a large system into exempted segments.

When review of the total of a project is separated under this subpart, the components or stages addressed in each EAW must include at least all components or stages for which permits or approvals are being sought from the RGU or other governmental units.

Subp. 5. **Change in proposed project; new EAW.** If, after a negative declaration has been issued but before the proposed project has received all approvals or been implemented, the RGU determines that a substantial change has been made in the proposed project or has occurred in the project's circumstances, which change may affect the potential for significant adverse environmental effects that were not addressed in the existing EAW, a new EAW is required.

Statutory Authority: *MS s 116D.04; 116D.045*

History: *13 SR 1437; 31 SR 539; 34 SR 721*

Posted: *November 30, 2009*

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When a writing or recorded statement or part thereof is introduced by a party, an adverse party may require the introduction at that time of any other part or any other writing or recorded statement which ought in fairness to be considered contemporaneously with it.

Committee Comment--1977

The rule extends the present rule with regard to depositions to other writings and recordings. Minn. R. Civ. P. 32.01(4). The rule is not intended to apply to conversations.

ARTICLE 2. JUDICIAL NOTICE

Rule 201. Judicial Notice of Adjudicative Facts

(a) **Scope of rule.** This rule governs only judicial notice of adjudicative facts in civil cases.

(b) **Kinds of facts.** A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.

(c) **When discretionary.** A court may take judicial notice, whether requested or not.

(d) **When mandatory.** A court shall take judicial notice if requested by a party and supplied with the necessary information.

(e) **Opportunity to be heard.** A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

(f) **Time of taking notice.** Judicial notice may be taken at any stage of the proceeding.

(g) **Instructing jury.** The court shall instruct the jury to accept as conclusive any fact judicially noticed.

(Amended effective January 1, 1990.)

Committee Comment--1989

Rule 201(a)

The rule governing judicial notice is applicable only to civil cases. The status of the law governing the use of judicial notice in criminal cases is unsettled and not appropriate for codification. While it is understood that a trial judge should not direct a verdict against an accused in a criminal case, it is less clear the extent to which the court can take judicial notice of uncontested and uncontradictable peripheral facts or facts establishing venue. See e.g., State v. White, 300 N.W.2d 176 (Minn. 1980); State v. Trezona, 286 Minn. 531, 176 N.W.2d 95 (1970). Trial courts should rely on applicable case law to determine the appropriate use of judicial notice in criminal cases.

This rule is limited to judicial notice of "adjudicative" facts, and does not govern judicial notice of "legislative" facts. The distinction between adjudicative and legislative facts was developed by Professor Kenneth C. Davis. An Approach to Problems of Evidence in the Administrative Process, 55 Harv. L. Rev. 364, 404-407 (1942); Judicial Notice, 55 Colum. L. Rev. 945 (1955); Administrative Law Text, Ch. 15 (3d ed. 1972).

Adjudicative facts generally are the type of facts decided by juries. Facts about the parties, their activities, properties, motives, and intent, the facts that give rise to the controversy, are adjudicative facts.

Legislative facts involve questions of law and policy and normally are decided by the court. See Beaudette v. Frana, 285 Minn. 366, 372, 173 N.W.2d 416, 419, 420 (1969) where the Court notices the

effect which various courses of conduct might have upon the integrity of the marriage relationship. See also McCormack v. Hankscraft Co., 278 Minn. 322, 338, 154 N.W.2d 488, 500 (1967) "(e)nlarging a manufacturer's liability to those injured by its products more adequately meets public policy demands to protect consumers from the inevitable risks of bodily harm created by mass production and complex marketing conditions." The Committee was in agreement with the promulgators of the federal rule of evidence in not limiting judicial notice of legislative facts. See United States Supreme Court Advisory Committee Note.

Rule 201(b)

Minnesota has traditionally limited judicial notice of adjudicative facts to situations incapable of serious dispute. See State ex rel. Remick v. Clousing, 205 Minn. 296, 301, 285 N.W. 711, 714, 123 A.L.R. 465 (1939). This includes matters capable of accurate and ready determination. See Bollenbach v. Bollenbach, 285 Minn. 418, 429, 175 N.W.2d 148, 156 (1970), as well as facts of common knowledge; In re Application of Baldwin, 218 Minn. 11, 16, 17, 15 N.W.2d 184, 187 (1944).

Rule 201(c), (d)

These issues have received little attention in Minnesota. See generally State, Department of Highways v. Halvorson, 288 Minn. 424, 429, 181 N.W.2d 473, 476 (1970). The net effect of the rule should be to encourage the taking of judicial notice in appropriate circumstances. The improper refusal to take judicial notice would not necessarily be reversible. See Rule 103.

Rule 201(e)

The opportunity to be heard is a mainstay of procedural fairness. This right is protected by the rule. If the limits imposed upon the judicial notice by subdivision (b) of this rule are properly observed, there should be relatively little controversy concerning the right to be heard. The shape of the hearing on the issue of judicial notice rests in the discretion of the trial judge. However, in a jury trial such a hearing should always be outside of the presence of the jury. Rule 103(c). See also rule 104(c).

Rule 201(f)

This subdivision recognizes that the circumstances which make judicial notice of adjudicative facts appropriate are not limited to any particular stage of the judicial process.

Rule 201(g)

The conclusive nature of judicially noticed facts in civil cases is consistent with the restrictions which the rule places upon the kinds of facts which can be judicially noticed. The rule does not affect judicial notice of foreign law. See Minn. R. Civ. P. 44.04. There are a number of existing statutes that deal with judicial notice of local laws, regulations, etc. See e.g., Minnesota Statutes, chapter 599, and sections 268.12(3), 410.11 (1974); Minnesota Statutes 1975 Supplement, section 15.049.

ARTICLE 3. PRESUMPTIONS IN CIVIL ACTIONS AND PROCEEDINGS

Rule 301. Presumptions in General in Civil Actions and Proceedings

In all civil actions and proceedings not otherwise provided for by statute or by these rules, a presumption imposes on the party against whom it is directed the burden of going forward with evidence to rebut or meet the presumption, but does not shift to such party the burden of proof in the sense of the risk of nonpersuasion, which remains throughout the trial upon the party on whom it was originally cast.

Committee Comment—1977

OFFICE OF THE HENNEPIN COUNTY ATTORNEY

MICHAEL O. FREEMAN COUNTY ATTORNEY

December 19, 2011

VIA ELECTRONIC MAIL

Patrick Whiting
Assistant Attorney General
Minnesota Attorney General's Office
Bremer Tower, Suite 1800
445 Minnesota Street
St. Paul, MN 55101-2134

Dear Pat:

This is to notify you that the Board of the Hennepin County Regional Railroad Authority passed the following resolution today:

"BE IT RESOLVED, that the HCRRA Board directs staff to notify the Minnesota Department of Transportation that, in light of direction from the Federal Transit Administration regarding the Southwest LRT project (and only for purposes of completing the Southwest LRT project): (1) the Hennepin County Regional Railroad Authority has determined that freight rail relocation no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project under state law; (2) HCRRA will amend the DEIS to include freight line relocation in the scope of the Southwest LRT project; and (3) freight rail location either to the MN&S corridor or within the Kenilworth Corridor will be included as an element of that overall Southwest LRT project that will be subject to environmental review under state and federal environmental law."

Sincerely,

HOWARD R. ORENSTEIN
Sr. Assistant Hennepin County Attorney
Telephone: (612) 348-4618
FAX: (612) 348-8299

Minnesota Department of Transportation
395 John Ireland Boulevard
Saint Paul, MN 55155

December 20, 2011

To Whom It May Concern:

RESOLUTION

WHEREAS, a project consisting of track improvements to the existing Canadian Pacific (CP) Bass Lake Spur, CP Minneapolis, Northfield & Southern (MN&S) Spur, and the Burlington Northern Santa Fe (BNSF) Wayzata Subdivision in the City of St. Louis Park was proposed to accommodate the relocation of the Twin Cities and Western (TC&W) freight rail traffic currently operating in the Kenilworth Corridor in Minneapolis (Proposed Freight Project); and

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) was the Proposer of the Proposed Freight Project, as the term "Proposer" is defined by Minn. R. 4410.0200, subp. 68 (2011); and

WHEREAS, the Minnesota Department of Transportation (MnDOT) was the Responsible Governmental Unit (RGU) for the Proposed Freight Project pursuant to Minn. R. 4410.0500, subp. 2 (2011), and as the term "RGU" is defined by Minn. R. 4410.0200, subp. 76 (2011) ; and

WHEREAS, MnDOT prepared an Environmental Assessment Worksheet (EAW) for the Proposed Freight Project pursuant to Minn. R. 4410.1400 (2011), and as the term "Environmental Assessment Worksheet" is defined by Minn. Stat. § 116D.04, subd. 1a(c) (2011) and Minn. R. 4410.0200, subp. 17 (2011); and

WHEREAS, MnDOT published notice of the completion of the EAW for the Proposed Freight Project and provided copies of the EAW to the Minnesota Environmental Quality Board and its member agencies, and received and responded to comments on the need for an Environmental Impact Statement (EIS) following publication pursuant to the requirements of Minn. Stat. § 116D.04, subd. 2a(b) (2011), Minn. R. 4410.1500 (2011); Minn. R. 4410.1600 (2011); and

WHEREAS, MnDOT determined that the Proposed Freight Project does not have the potential for significant environmental impact pursuant to Minn. R. 4410.1700 (2011); and

WHEREAS, MnDOT determined that an Environmental Impact Statement (EIS) was not required pursuant to the Minnesota Environmental Protection Act, Minn. Stat. § 116D.01, et seq. (MEPA), and accordingly issued and distributed a Negative Declaration on June 30, 2011, pursuant to Minn. R. 4410.1700 (2011); and

WHEREAS, on December 19, 2011, the HCRRA Board passed a resolution determining that the Proposed Freight Project no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project;

NOW THEREFORE, MnDOT hereby vacates the EAW for the Proposed Freight Project; and

NOW THEREFORE, MnDOT hereby vacates its Negative Declaration for the Proposed Freight Project; and

NOW THEREFORE, because the Proposed Freight Project is no longer being pursued as a standalone project by the Proposer, environmental review as a standalone project is no longer required; and

NOW THEREFORE, if any other project is proposed in the future, the need for a new environmental review will be evaluated in accordance with the provisions of the Minnesota Environmental Policy Act.

Frank Pafko

Frank Pafko
Chief Environmental Officer
Minnesota Department of Transportation

STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

v.

Minnesota Department of Transportation,

Respondent.

RELATORS LAPRAY, ET AL.'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS

Appellate Court Case Nos.
A11-1345
A11-1386

INTRODUCTION

On December 2, 2012, after two extensions requested by Respondent Minnesota Department of Transportation ("MnDOT"), Relators Jami Ann LaPray, et al. (collectively, "LaPray") submitted its opening brief in this matter. That brief established that the Environmental Assessment Worksheet ("EAW") prepared on a freight rail relocation project proposed by the Hennepin County Regional Railroad Authority ("HCRRA") was inadequate under the Minnesota Environmental Policy Act ("MEPA"), Minn. Stat. ch. 116D. Approximately two weeks later, on December 19, 2011, HCRRA determined not to pursue the proposed freight rail relocation as a stand-alone project under MEPA. The next day, December 20, 2011, MnDOT took the unprecedented step of vacating the EAW and the negative declaration on the need for an environmental impact statement. It appears that the actions of HCRRA and MnDOT have rendered LaPray's

challenge of the EAW moot. However, as discussed below, merely including the freight rail relocation project as part of an ongoing environmental impact statement on HCRRA's proposed southwest light rail transit line ("SWLRT")—HCRRA's apparent intention, at the behest of the Federal Transit Administration ("FTA")—does not guarantee that analysis of the freight rail relocation will comply with MEPA and the National Environmental Policy Act, 42 U.S.C. §§ 4321-4370h ("NEPA"). Moreover, in vacating its EAW and its decision that the freight rail relocation project does not merit an environmental impact statement under MEPA, MnDOT has apparently rendered both its EAW and its decision a nullity. Therefore, as MnDOT acknowledges, any future state-only project proposing to relocate freight traffic to tracks constructed in the City of St. Louis Park must undergo the entire MEPA environmental review process anew, without reference to the EAW or MnDOT's negative declaration on the need for an environmental impact statement.

FACTUAL BACKGROUND

The HCRRA project that MnDOT's EAW evaluated was a proposal to change the route that Twin Cities & Western ("TC&W") freight trains travel through St. Louis Park and into Minneapolis. LaPray Appellate Br. at 5, filed Dec. 2, 2011.[1] Currently, the TC&W freight trains arriving from the West take the Bass Lake Spur through St. Louis Park to West Lake Street in Minneapolis, continue on to the Cedar Lake Junction on track owned by HCRRA in what is known as the Kenilworth Corridor, connect with the BNSF

[1] Rather than resubmitting portions of MnDOT's administrative record already submitted in LaPray's appellate brief and appendix, filed on December 2, 2011, LaPray is citing relevant pages of its appellate brief.

Wayzata Subdivsion, and continue through Minneapolis and into St. Paul. *Id.* Under HCRRA's proposed project the TC&W freight trains would still begin their route on the Bass Lake Spur and connect with the BNSF Wayzata Subdivision. However, rather than taking the Kenilworth Corridor, the TC&W trains would be rerouted north through St. Louis Park, after which they would connect with the Wayzata Subdivision and continue on into Minneapolis. *Id.*

HCRRA is also the project proposer and current responsible governmental unit ("RGU") under MEPA for SWLRT between Eden Prairie and Minneapolis. *Id.* at 8. Decades ago, HCRRA purchased the Kenilworth Corridor to preserve the right-of-way for future light rail transit use, allowed the TC&W temporary use for freight rail, and noted that TC&W would have to vacate the corridor when HCRRA proposed the SWLRT project. *Id.* at 8-9.

In the fall of 2009 HCRRA recommended as the SWLRT Locally Preferred Alternative a route that would run alongside the Bass Lake Spur in St. Louis Park and then through the Kenilworth Corridor into Minneapolis. *Id.* at 9. Also in the fall of 2009, HCRRA in the TC&W Freight Train Realignment Study concluded that the Kenilworth Corridor right-of-way could not accommodate both the proposed SWLRT and the existing TC&W freight rail lines. *Id.* Accordingly, HCRRA recommended removing the TC&W trains from the Kenilworth Corridor and rerouting them north through St. Louis Park on the MN&S Spur to connect with the BNSF Wayzata Subdivision in the northern part of the City. *Id.* This rerouting of the TC&W freight trains is the project that MnDOT's now-vacated EAW addressed. *Id.*

In May 2011, MnDOT, the RGU under MEPA for the freight rail relocation project, prepared an EAW and solicited public comment on the document. *Id.* The comment period for the EAW closed on June 15, 2011. *Id.* During the comment period numerous parties, including the City of St. Louis Park, the St. Louis Park Public Schools, and many others submitted comments critical of the EAW. *Id.* at 9-10. The comments addressed the inadequacy of the EAW's analysis, HCRRA's failure to offer adequate mitigation, and HCRRA's and MnDOT's failure to adequately address connected actions, including SWLRT. *Id.* MnDOT issued Findings of Fact and Conclusions on June 30, 2011, that determined the EAW complied with MEPA and that an EIS was not needed. *Id.* at 11. On July 28, 2011, LaPray challenged the adequacy of the MnDOT EAW by obtaining a writ of certiorari in this Court. On August 5, 2011, Relator City of St. Louis Park (the "City") challenged the adequacy of the MnDOT EAW by obtaining a writ of certiorari in this Court. This Court consolidated the two actions on August 12, 2011, and ordered MnDOT to submit a final itemized list of the contents of its administrative record by September 9, 2011. MnDOT served the itemized administrative record contents list on September 6, 2011, making LaPray's and the City's briefs due on October 6, 2011. Lightfoot Aff., ¶ 2.

On September 2, 2011, FTA—the lead federal agency for the SWLRT project NEPA—sent the Metropolitan Council a letter regarding the HCRRA Kenilworth Corridor project addressed in the EAW. According to FTA, the ongoing environmental impact statement for SWLRT must "[a]nalyze the impacts of relocating the Twin Cities & Western freight line, which currently operates on a segment of the planned Southwest

LRT route" because "the freight rail relocation is necessary for [HCRRA] to be able to implement the Southwest LRT project as planned . . . ." Lightfoot Aff., ¶ 3, Ex. A. Shortly after FTA sent its letter to the Metropolitan Council, MnDOT approached LaPray and the City to request an extension of the briefing schedule. Lightfoot Aff., ¶ 4. On October 5, 2011, this Court granted the parties' joint motion to extend the briefing schedule to allow LaPray and the City to file their initial briefs on November 4 because "recent developments . . . may require the disputed project to undergo further environmental analysis as a part of a federal environmental-impact statement." Lightfoot Aff., ¶ 5, Ex. B. On November 3, 2011, this Court granted a second extension of the briefing schedule, also at MnDOT's request, allowing LaPray and the City to file their initial briefs by December 2, 2011. Lightfoot Aff., ¶¶ 6-7 & Ex. C. The parties and HCRRA met to discuss settlement twice before December 2 but were unable to reach agreement. Lightfoot Aff., ¶ 8.

On December 2, 2011, LaPray and the City filed their initial appellate briefs. On December 19, 2011, HCRRA passed a resolution regarding the freight rail relocation project evaluated in MnDOT's EAW. The resolution stated that "in light of direction from the Federal Transit Administration," HCRRA would include the proposed freight rail relocation project in the environmental impact statement on SWLRT because the project was within "the scope of the Southwest LRT project." Lightfoot Aff., ¶ 9, Ex. D. Accordingly, the freight rail relocation project would not proceed as a "standalone project under state law" and "will be included as an element of that overall Southwest LRT

project that will be subject to environmental review under state and federal environmental law." *Id.*

The next day, December 20, 2011, MnDOT issued a resolution regarding the proposed HCRRA freight rail relocation project. The resolution noted that in light of HCRRA's resolution that the freight rail relocation project "no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project," MnDOT was vacating both its EAW and its negative declaration on the need for an environmental impact statement for the freight rail relocation project. Lightfoot Aff., ¶ 10, Ex. E. MnDOT's resolution also clearly stated that if "any other [freight rail relocation] project is proposed in the future, the need for a new environmental review will be evaluated in accordance with the provisions of the Minnesota Environmental Policy Act." *Id.* On January 3, 2012, citing the December 19, 2011, HCRRA resolution and its own December 20, 2011, resolution, MnDOT moved to dismiss this action.

ARGUMENT

I. MNDOT'S UNPRECEDENTED ACTION UNDER MEPA, TAKEN AFTER LAPRAY'S AND THE CITY'S BRIEFS ESTABLISHED THAT THE EAW WAS INADEQUATE, HAS MOOTED THE CHALLENGE TO THE EAW.

A. LaPray's Brief Established That the EAW was Inadequate.

LaPray's brief established that the EAW was inadequate under MEPA for five general reasons. First, the EAW was inadequate because MnDOT and HCRRA failed to discuss the freight rail relocation project and the SLWRT project as "connected actions." MEPA requires that connected actions be considered in total in a single EAW—

something the freight rail project EAW utterly failed to do. LaPray Br. at 13-18. Second, the EAW failed to comply with MEPA because it did not consider the SWLRT project as a "phased action." *Id.* at 19-20. Third, the EAW failed to comply with MEPA because it did not fully analyze the freight rail relocation's noise and vibration impacts, and because it proposed inadequate measures to mitigate the proposed project's noise and vibration. *Id.* at 20-30. Fourth, the EAW provided an inadequate analysis of the proposed project's safety impacts. *Id.* at 30-34. Fifth, MnDOT ignored or summarily dismissed substantive comments on the EAW. *Id.* at 25-27, 34.

Rather than address LaPray's arguments on the merits, HCRRA and MnDOT took unprecedented actions under MEPA to moot LaPray's EAW challenge. Although a project proposer such as HCRRA is free not to proceed with a project that has been the subject of environmental review, neither MEPA nor the Environmental Quality Board rules implementing the statute expressly provide that an RGU may "vacate" an environmental review document. MnDOT cites no case law—and LaPray could find none—in which a MEPA project proposer formally "withdrew" a proposed project and an RGU subsequently "vacated" both an underlying MEPA environmental review document for the withdrawn project and the decision that the document was adequate.

Moreover, mere inclusion of the freight rail relocation project as a part of the environmental impact statement on HCRRA's SWLRT project does not mean that the SWLRT analysis of freight rail relocation will satisfy the requirements of NEPA and MEPA. Under MEPA and NEPA, governmental agencies must assess the impacts of a proposed action and mitigation to address those impacts "early in the decision making

process." *See, e.g.*, Minn. R. 4410.0300, subp. 3 (EQB rule implementing MEPA). *See also Trout Unlimited, Inc. v. Minn. Dep't of Ag.*, 528 N.W.2d 903, 909 (Minn. Ct. App. 1995) (same); *Blue Mts. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1216 (9th Cir. 1998) (same, construing NEPA and citing *Marsh v. Oregon Natural Res. Council*, 490 U.S. 360, 371 (1989)); *Appalachian Mt. Club v. Brinegar*, 394 F. Supp. 105, 122 (D.N.H. 1975) (same, construing NEPA). If the environmental impact statement on SWLRT offers the same conclusory statements, broad generalizations, and vague references that MnDOT and HCRRA provided in the EAW, then the SLWRT environmental impact statement will not meet the requirements of NEPA or MEPA. *Nat'l Parks & Conserv. Ass'n v. Bureau of Land Management*, 606 F.3d 1058, 1072-73 (9th Cir. 2010) (construing NEPA in holding that discussion of impacts must be full and fair); *Nat'l Audubon Soc'y v. Dep't of Navy*, 422 F.3d 174, 194 (4th Cir. 2005) (holding that under NEPA an "agency's hard look should include neither researching in a cursory manner nor sweeping negative evidence under the rug"); *Neighbors of Cuddy Mt. v. United State Forest Serv.*, 137 F.3d 1372, 1380-81 (9th Cir. 1998) (under NEPA, an environmental review document must contain a detailed analysis of mitigation measures and their effectiveness, not "broad generalizations and vague references"); *Oregon Nat. Res. Council v. Harrell*, 52 F.3d 1499, 1507 (9th Cir. 1995) (untested mitigation or mitigation that is "continuing to be discussed" is inadequate under NEPA).

B. MnDOT Correctly Acknowledges That Any Future Freight Rail Relocation Project Must Undergo Environmental Review "Anew" Under MEPA.

MnDOT repeatedly states that its December 20, 2011, resolution addressing the freight rail relocation EAW vacated the entire EAW as well as MnDOT's decision that the EAW was adequate under MEPA. MnDOT Memo. of Law at 2, 7, 9, 11. As MnDOT succinctly describes its action: "Neither the EAW nor the Negative Declaration can be relied upon now or in the future, since, for all practical and legal purposes, those documents *no longer exist*." *Id.* at 9 (emphasis original). Moreover, according to MnDOT, HCRRA's decision to "withdraw" the freight rail relocation project as a stand-alone state proposal under MEPA means "there is no longer a Project to evaluate." *Id.* at 12. As a result, MnDOT correctly acknowledges that for any project proposing to relocate freight traffic from the Kenilworth Corridor to tracks constructed in the City of St. Louis Park—whether "proposed again by HCRRA (or anyone else)"—the "MEPA environmental review process will have to begin anew." *Id.* at 14. And MnDOT further states that its "EAW and Negative Declaration" would not be a part of that review process "since both [the EAW and the Negative Declaration] have been vacated." *Id.* Accordingly, any RGU conducting such new MEPA environmental review of a state-only freight rail relocation proposal would have to comply with the statute and all Environmental Quality Board rules implementing the statute. These requirements include the Environmental Quality Board rules mandating the preparation of a draft environmental review document, publication of a notice of availability and a press release regarding the availability of the draft environmental review document for public

comment, and related rules associated with obtaining input on the document from interested parties. *See generally* Minn. R. 4410.1500.

CONCLUSION

HCRRA and MnDOT, by taking actions that are unprecedented under MEPA after LaPray filed its opening appellate brief, have mooted LaPray's challenge of the EAW for the freight rail relocation project. In so doing, HCRRA and MnDOT have opted not to respond to LaPray's arguments on the merits. Mere inclusion of the freight rail relocation project as a part of the environmental impact statement on HCRRA's SWLRT project does not mean that SWLRT analysis will satisfy the requirements of NEPA and MEPA. If the environmental impact statement on SWLRT offers the same conclusory statements, broad generalizations, and vague references that MnDOT and HCRRA provided in the EAW, then the SLWRT environmental impact statement will be inadequate. Moreover, MnDOT correctly acknowledges that for any future project proposing to relocate freight traffic from the Kenilworth Corridor to tracks constructed in the City of St. Louis Park, the MEPA environmental review process must begin anew without reference to the EAW or MnDOT's negative declaration on the need for an environmental impact statement.

Dated: January 10, 2012 THE ENVIRONMENTAL LAW GROUP, LTD.

By: _____

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STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

v.

Minnesota Department of Transportation,

Respondent.

AFFIDAVIT OF THADDEUS R. LIGHTFOOT IN SUPPORT OF RELATORS LAPRAY, ET AL.'S RESPONSE TO RESPONDENT'S MOTION TO DISMISS

Appellate Court Case Nos.
A11-1345
A11-1386

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Thaddeus R. Lightfoot, being first duly sworn and upon oath, deposes and states as follows:

1. I am counsel for Relators Jami Ann LaPray, et al., in this matter and have first-hand knowledge of the matters set forth in this affidavit.

2. Respondent Minnesota Department of Transportation ("MnDOT") served its itemized list of administrative record contents on September 6, 2011, making LaPray's initial appellate brief due 30 days later, on October 6, 2011.

3. Exhibit A to this affidavit is a September 2, 2011, letter sent by the Federal Transit Administration to the Metropolitan Council. The letter is also included in LaPray's Appendix, filed with this Court on December 2, 2011, at A-497 to A-500.

4. On September 30, 2011, Patrick Whiting, counsel for MnDOT in this matter, sent an email to myself and Thomas Scott, counsel for Respondent City of St. Louis Park, requesting an extension of the briefing schedule in this matter. Both Mr. Scott and I agreed to Mr. Whiting's request and signed a joint motion to extend the briefing schedule.

5. Exhibit B to this affidavit is this Court's order of October 5, 2011, granting the parties' joint motion to extend the briefing schedule in this matter and ordering Respondents to file their opening appellate briefs on or before November 4, 2011.

6. On October 27, 2011, Mr. Whiting again sent an email to myself and Mr. Scott requesting a second extension of the briefing schedule in this matter. Both Mr. Scott and I agreed to Mr. Whiting's request and signed a second joint motion to extend the briefing schedule.

7. Exhibit C to this affidavit is this Court's order of November 3, 2011, granting the parties' joint motion to extend the briefing schedule in this matter and ordering Respondents to file their opening appellate briefs on or before December 2, 2011.

8. Client representatives and counsel from MnDOT, the Hennepin County Regional Railroad Authority, the City of St. Louis Park, and Relators Jami Ann LaPray, et al., met on November 7, 2011, and November 22, 2011, to discuss settlement but were unable to reach an agreement.

9. Exhibit D to this affidavit is a letter from Howard R. Orenstein, Senior Assistant Hennepin County Attorney, to Patrick Whiting, counsel for MnDOT, dated

December 19, 2011, summarizing the Hennepin County Regional Railroad Authority's resolution of the same date addressing the proposed freight rail relocation project that was the subject of MnDOT's environmental assessment worksheet ("EAW"). Mr. Whiting provided me with a copy of this letter on December 20, 2011.

10. Exhibit E to this affidavit is a December 20, 2011, resolution of MnDOT addressing the proposed freight rail relocation project that was the subject of MnDOT's EAW. Patrick Whiting, MnDOT's counsel, provided me with a copy of this resolution on December 20, 2011.

FURTHER AFFIANT SAYETH NOT.

Thaddeus R. Lightfoot

Subscribed and sworn to before me
this 10th day of January, 2012.

Notary Public

MARY KATHERINE SHANNON
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2015

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.

EXHIBIT
A

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,

Rhonda Reed

Marisol R. Simón

FILED

October 5, 2011

OFFICE OF APPELLATE COURTS

STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

vs.

Minnesota Department of Transportation,

Respondent.

ORDER

A11-1345
A11-1386

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. In an order filed on August 12, 2011, we consolidated these certiorari appeals from a decision issued by the Minnesota Department of Transportation on June 30, 2011, determining the need for an environmental-impact statement.

2. Relators' briefs are due on October 6, 2011, which is 30 days after the itemized list of the contents of the record was served on September 6, 2011. *See* Minn. R. Civ. App. P. 115.04, subd. 4.

3. On October 3, 2011, the parties filed a joint motion to modify the briefing schedule. The parties state that the extension is warranted due to recent developments that may require the disputed project to undergo further environmental analysis as part of

EXHIBIT B 25 9

a federal environmental-impact statement. The parties request that the time for relators to file their briefs be extended until November 4, 2011.

4. In view of the possibility that the appeal may become moot, we will grant the requested extension.

IT IS HEREBY ORDERED:

1. The parties' motion to modify the briefing schedule is granted.

2. Unless the appeals are dismissed, relators' briefs shall be served and filed by November 4, 2011.

3. Briefing shall continue pursuant to Minn. R. Civ. App. P. 131.01.

Dated: October 5, 2011

BY THE COURT

/s/

Matthew E. Johnson
Chief Judge

FILED

November 3, 2011

OFFICE OF APPELLATE COURTS

STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

City of St. Louis Park,

Relator (A11-1386),

vs.

Minnesota Department of Transportation,

Respondent.

ORDER

A11-1345
A11-1386

BASED ON THE FILE, RECORD, AND PROCEEDINGS, AND BECAUSE:

1. In an order filed on August 12, 2011, we consolidated these certiorari appeals from a decision issued by the Minnesota Department of Transportation on June 30, 2011, determining the need for an environmental-impact statement.

2. Relators' briefs initially were due on October 6, 2011, which was 30 days after the itemized list of the contents of the record was served on September 6, 2011. *See* Minn. R. Civ. App. P. 115.04, subd. 4.

3. On October 3, 2011, the parties filed a joint motion to extend relator's briefing deadline until November 4, 2011, because of recent developments that may require the disputed project to undergo further environmental analysis for a federal

EXHIBIT C 2 of 1

environmental impact statement. In an order filed on October 5, 2011, we granted the requested extension.

4. On October 28, 2011, the parties filed a joint motion for a second extension that would make relators' briefs due on December 2, 2011. The motion states that the parties anticipate that many of the details about whether and how the additional analysis for a federal environmental impact statement will be performed will become clearer over the next month.

5. It appears that judicial economy will be served by granting a second extension and that the parties' resources may be conserved.

IT IS HEREBY ORDERED:

1. The parties' joint motion to extend the briefing schedule is granted.

2. On or before December 2, 2011, relators shall file their briefs.

Dated: November 3, 2011

BY THE COURT

/s/_____
Matthew E. Johnson
Chief Judge

OFFICE OF THE HENNEPIN COUNTY ATTORNEY
MICHAEL O. FREEMAN COUNTY ATTORNEY

December 19, 2011

VIA ELECTRONIC MAIL

Patrick Whiting
Assistant Attorney General
Minnesota Attorney General's Office
Bremer Tower, Suite 1800
445 Minnesota Street
St. Paul, MN 55101-2134

Dear Pat:

This is to notify you that the Board of the Hennepin County Regional Railroad Authority passed the following resolution today:

"BE IT RESOLVED, that the HCRRA Board directs staff to notify the Minnesota Department of Transportation that, in light of direction from the Federal Transit Administration regarding the Southwest LRT project (and only for purposes of completing the Southwest LRT project): (1) the Hennepin County Regional Railroad Authority has determined that freight rail relocation no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project under state law; (2) HCRRA will amend the DEIS to include freight line relocation in the scope of the Southwest LRT project; and (3) freight rail location either to the MN&S corridor or within the Kenilworth Corridor will be included as an element of that overall Southwest LRT project that will be subject to environmental review under state and federal environmental law."

Sincerely,

HOWARD R. ORENSTEIN
Sr. Assistant Hennepin County Attorney
Telephone: (612) 348-4618
FAX: (612) 348-8299

EXHIBIT
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2523

Minnesota Department of Transportation
395 John Ireland Boulevard
Saint Paul, MN 55155

December 20, 2011

To Whom It May Concern:

RESOLUTION

WHEREAS, a project consisting of track improvements to the existing Canadian Pacific (CP) Bass Lake Spur, CP Minneapolis, Northfield & Southern (MN&S) Spur, and the Burlington Northern Santa Fe (BNSF) Wayzata Subdivision in the City of St. Louis Park was proposed to accommodate the relocation of the Twin Cities and Western (TC&W) freight rail traffic currently operating in the Kenilworth Corridor in Minneapolis (Proposed Freight Project); and

WHEREAS, the Hennepin County Regional Railroad Authority (HCRRA) was the Proposer of the Proposed Freight Project, as the term "Proposer" is defined by Minn. R. 4410.0200, subp. 68 (2011); and

WHEREAS, the Minnesota Department of Transportation (MnDOT) was the Responsible Governmental Unit (RGU) for the Proposed Freight Project pursuant to Minn. R. 4410.0500, subp. 2 (2011), and as the term "RGU" is defined by Minn. R. 4410.0200, subp. 76 (2011) ; and

WHEREAS, MnDOT prepared an Environmental Assessment Worksheet (EAW) for the Proposed Freight Project pursuant to Minn. R. 4410.1400 (2011), and as the term "Environmental Assessment Worksheet" is defined by Minn. Stat. § 116D.04, subd. 1a(c) (2011) and Minn. R. 4410.0200, subp. 17 (2011); and

WHEREAS, MnDOT published notice of the completion of the EAW for the Proposed Freight Project and provided copies of the EAW to the Minnesota Environmental Quality Board and its member agencies, and received and responded to comments on the need for an Environmental Impact Statement (EIS) following publication pursuant to the requirements of Minn. Stat. § 116D.04, subd. 2a(b) (2011), Minn. R. 4410.1500 (2011); Minn. R. 4410.1600 (2011); and

WHEREAS, MnDOT determined that the Proposed Freight Project does not have the potential for significant environmental impact pursuant to Minn. R. 4410.1700 (2011); and

EXHIBIT
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WHEREAS, MnDOT determined that an Environmental Impact Statement (EIS) was not required pursuant to the Minnesota Environmental Protection Act, Minn. Stat. § 116D.01, et seq. (MEPA), and accordingly issued and distributed a Negative Declaration on June 30, 2011, pursuant to Minn. R. 4410.1700 (2011); and

WHEREAS, on December 19, 2011, the HCRRA Board passed a resolution determining that the Proposed Freight Project no longer warrants separate environmental analysis under state law as a standalone project and is no longer being pursued as a standalone project;

NOW THEREFORE, MnDOT hereby vacates the EAW for the Proposed Freight Project; and

NOW THEREFORE, MnDOT hereby vacates its Negative Declaration for the Proposed Freight Project; and

NOW THEREFORE, because the Proposed Freight Project is no longer being pursued as a standalone project by the Proposer, environmental review as a standalone project is no longer required; and

NOW THEREFORE, if any other project is proposed in the future, the need for a new environmental review will be evaluated in accordance with the provisions of the Minnesota Environmental Policy Act.

Frank Pafko

Frank Pafko
Chief Environmental Officer
Minnesota Department of Transportation

STATE OF MINNESOTA

IN COURT OF APPEALS

Jami Ann LaPray, et al.,

Relators (A11-1345),

AFFIDAVIT OF SERVICE

City of St. Louis Park,

Relator (A11-1386),

v.

Appellate Court Case Nos.
A11-1345
A11-1386

Minnesota Department of Transportation,

Respondent.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Thaddeus R. Lightfoot, being first duly sworn and upon oath, deposes and states as follows:

I hereby certify that I provided for service by messenger a copy of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss and a copy of the Affidavit of Thaddeus R. Lightfoot in Support of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss, with exhibits, and directed the messenger to personally deliver the documents on the 10th day of January, 2012, on the following:

Patrick Whiting
Assistant Attorney General
Office of the Minnesota Attorney General
445 Minnesota Street, Suite 1800
St. Paul, MN 55101-2134

Thomas M. Scott
Campbell Knutson
1380 Corporate Center Curve, Suite 317
Eagan, MN 55121

This affidavit is dated and given this 10th day of January, 2012.

Thaddeus R. Lightfoot

Subscribed and sworn to before me
this 10th day of January, 2012.

Notary Public

MARY KATHERINE SHANNON
NOTARY PUBLIC - MINNESOTA
My Commission Expires Jan. 31, 2015

ENVIRONMENTAL LAW GROUP

THADDEUS R. LIGHTFOOT
DIRECT DIAL: 612/623-2363
E-MAIL: TLIGHTFOOT@ENVIROLAWGROUP.COM

January 10, 2012

BY HAND

Clerk of Appellate Courts
Minnesota Court of Appeals
305 Minnesota Judicial Center
25 Rev. Dr. Martin Luther King, Jr. Boulevard
St. Paul, MN 55155

Re: *Jami Ann LaPray, et. al & City of St. Louis Park v. Minnesota Department of Transportation*
Appellate Court Case Nos. A11-1345, A11-1386

Dear Clerk of Appellate Courts:

Please find the following enclosed:

1) an original and four copies of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss;
2) an original and four copies of Affidavit of Thaddeus R. Lightfoot in Support of Relators LaPray, et al.'s Response to Respondent's Motion to Dismiss, with exhibits; and
3) an Affidavit of Service.

Please call me immediately should you have questions. Thank you for your assistance.

Sincerely,

Thaddeus R. Lightfoot

TRL/mks
Enclosures
Cc: Service List

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

Besides my general concerns about the freight rail re-route, the section of the SWLRT DEIS that describes the noise and vibration has flawed methods and conclusions. The vibration and the noise measurements were done with current MN&S traffic. It is important to note that the re-routed freight will be longer, more frequent, and include more locomotives per train. C

Vibration, Chapter 4.8.4: The conclusion that vibration will have no significant impacts is incorrect Vibration impacts will be longer in time and the total amount will increase with the heavier freight and additional locomotives. C

Noise, Chapter 4.7.5:

Quiet zones: The DEIS fails to describe the real world issues with the quiet zone. The SLP Senior High is both bookended by two blind curves and has athletic facilities on both sides of the tracks. The operating rail company, TC&W, has stated in a public document that it has safety concerns with a quiet zone due to the proximity of the tracks to schools, residents, and businesses. It will be impossible to design a quiet zone that will be both safe for the area while maintaining access for the adjacent Senior High school and local businesses. The quiet zone is listed as mitigation for noise impacts but it is a mitigation that is not supported by the neighborhoods, school board, or the operating rail companies. C

A quiet zone will not eliminate all noise impacts and the assessment fails to measure other sources:

a. the rail to wheel curve squeal from the tight interconnect curve
b. the additional noise of the locomotives as it throttles up both the southern interconnect ramp and grade change at the northern connection,
c. trains traveling west will need to use their brakes to maintain a slow speed going down grade and through curves
d. diminished livability from the introduction of night freight traffic
e. the amount of time exposed to the noise impacts of the stationary crossing bells will increase significantly due to increase in train numbers.

The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option. C

Name: Chris Maurer

Address: 2748 Brunswick Ave S

City/State/zip: St Louis Park MN 55416

Telephone: 952 928 8458 E-Mail:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly-used spur line into a main freight rail line, which will initially allow a 788% increase of rail car traffic. What the SWLRT-DEIS does not address, but should, are the real-world impacts of this action on the affected area. C

Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with the closing of the 29th street crossings (Chapter 3/p. 135) causes me the greatest concern. Residents from the Birchwood neighborhood requested on behalf of the Birchwood neighborhood that the grade crossing at 29th Street stay open. According to page 135 of the DEIS the 29th street crossing is being closed as a mitigation measure. However, the closing of the crossing will not benefit the neighborhood; it will, in fact, jeopardize residents because it will make emergency vehicle access difficult—if not impossible—during winter months due to narrowed streets. C

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park. C

Name: Chris Maurer

Address: 2748 Brunswick Ave S

City/State/zip: St Louis Park MN 55416

Telephone: 952 928 8458 E-Mail:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly used spur line into a main freight rail line, which will initially allow a 788% increase of rail car traffic. What the SWLRT-DEIS does not address, but should, are the real world impacts of this action on the affected area. C

Riddled with phantom assumptions, unsubstantiated assertions, and inexplicable omissions, the DEIS is not a serious attempt to consider the effect of the proposed re-route.

Chapter 1 of the DEIS states that without the re-route the TC&W's only options for moving its freight will be to access the MN&S tracks by use of the notorious switching wye in St. Louis Park, or to transfer cargo from railcars to highway trucks. The unstated assumption behind this statement is that the current route used by the TC&W will be severed. Presenting the either/or assumption for the switching wye or highway trucks creates the illusion of a fait accompli, when in fact the TC&W's current route through the Kenilworth corridor is a viable alternative.

Unsubstantiated assertions include the depiction in the DEIS that the historical character of the Kenilworth corridor (Chapter 3, page 58) would be compromised by its continued use for freight train traffic. The Kenilworth corridor was the home to not just railroad tracks, but an entire railroad yard for over one hundred years, beginning long before the current homes in the area were built.

Inexplicably omitted from the DEIS is how the re-route would be funded (Chapters 5 and 8). The re-route must be considered as part of the SWLRT and even without mitigation construction of the interconnect and upgrading the tracks on the MN&S to handle the heavier traffic is estimated to cost $125,000,000, money that was not originally included in the projected cost of the SWLRT, but the projected budget for the SWLRT has not been adjusted to recognize the added expense. Also, missing from the cost estimates are the costs for maintaining the interconnect structure after it is built.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park. C

Name: Chris Maurer

Address: 2748 Brunswick Ave S

City/State/zip: St Louis Park MN 55416

Telephone: 952 928 8458 E-Mail:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly used spur line into a main freight rail line, which will initially allow 788% increase of rail car traffic. What the SWLRT-DEIS does not address, but should, are the real world impacts of this action on the affected area. C

Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with freight rail noise and safety at the High School (Chapters 3, 4, and 9) causes me the greatest concern. The unique noise and safety issues associated with locating main line freight within 35 feet of the High School parking lot and 75 feet from the building are not adequately discussed. When the High School is mentioned the information is dismissive. At no point in the SWLRT –DEIS are the negative impacts the extra freight trains will have on the learning environment and safety of the students at St. Louis Park High School. Before the proposed re-route should even be considered the cost of sufficiently mitigating the impact to St. Louis Park High School need to be evaluated. C
Examples of concerns include but are not limited to the following:

- A plan for emergency evacuation of the school should evacuation be necessary when a train is passing
- How will the many classrooms affected by train noise be sound proofed
- How will the students who want to use the new rail bridge to cross Hwy. 7 on their way to school be kept off the bridge.
- How will the added vibration of longer, heavier and more frequent trains be mitigated to the investment the school makes in technology is not lost.
- How will the safety hazards of blind crossings, curves and hundreds of teenagers in close proximity be eliminated
- How will a derailment be prevented so our children's lives are not at risk

None of the mitigation requested by the City of St. Louis Park or the St. Louis Park School Board on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park. C

Name: Chris Maurer

Address: 2748 Brunswick Ave S

City/State/zip: St Louis Park MN 55416

Telephone: 952 928 8458 E-Mail:

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A supposed benefit of the proposed re-route is explained in chapter 1, pages 11 and 12 of the SWLRT-DEIS. According to the document Twin City and Western (TCW) freight trains will regularly travel north of St. Louis Park into Golden Valley, Crystal and New Hope. When the trains travel north they will have to cross Cedar Lake Road; however, no data is given for the impact of this blocked crossing. C

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Thank You,

Name: Jackson Pulmer-Kern
Address: 6494 Promontory Dr.
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Telephone: 952-234-9720 E-Mail: Pulme504@umn.edu

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Riddled with phantom assumptions, unsubstantiated assertions, and inexplicable omissions, the DEIS is not a serious attempt to consider the effect of the proposed re-route.

Chapter 1 of the DEIS states that without the re-route the TC&W's only options for moving its freight will be to access the MN&S tracks by use of the notorious switching wye in St. Louis Park, or to transfer cargo from railcars to highway trucks. The unstated assumption behind this statement is that the current route used by the TC&W will be severed. Presenting the either/or assumption for the switching wye or highway trucks creates the illusion of a fait accompli, when in fact the TC&W's current route through the Kenilworth corridor is a viable alternative.

Unsubstantiated assertions include the depiction in the DEIS that the historical character of the Kenilworth corridor (Chapter 3, page 58) would be compromised by its continued use for freight train traffic. The Kenilworth corridor was the home to not just railroad tracks, but an entire railroad yard for over one hundred years, beginning long before the current homes in the area were built.

Inexplicably omitted from the DEIS is how the re-route would be funded (Chapters 5 and 8). The re-route must be considered as part of the SWLRT and even without mitigation construction of the interconnect and upgrading the tracks on the MN&S to handle the heavier traffic is estimated to cost $125,000,000, money that was not originally included in the projected cost of the SWLRT, but the projected budget for the SWLRT has not been adjusted to recognize the added expense. Also, missing from the cost estimates are the costs for maintaining the interconnect structure after it is built.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Anthony Shaw

Address: 7214 Vincent Ave. So.

City/State/zip: Richfield MN 55423

Telephone: 612-290-8668 E-Mail:

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Telephone: 952-920-8363 E-Mail:

C

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

Besides my general concerns about the freight rail re-route, the section of the SWLRT DEIS that describes the noise and vibration has flawed methods and conclusions. The vibration and the noise measurements were done with current MN&S traffic. It is important to note that the re-routed freight will be longer, more frequent, and include more locomotives per train.

Vibration, Chapter 4.8.4: The conclusion that vibration will have no significant impacts is incorrect Vibration impacts will be longer in time and the total amount will increase with the heavier freight and additional locomotives.

Noise, Chapter 4.7.5:

Quiet zones: The DEIS fails to describe the real world issues with the quiet zone. The SLP Senior High is both bookended by two blind curves and has athletic facilities on both sides of the tracks. The operating rail company, TC&W, has stated in a public document that it has safety concerns with a quiet zone due to the proximity of the tracks to schools, residents, and businesses. It will be impossible to design a quiet zone that will be both safe for the area while maintaining access for the adjacent Senior High school and local businesses. The quiet zone is listed as mitigation for noise impacts but it is a mitigation that is not supported by the neighborhoods, school board, or the operating rail companies.

A quiet zone will not eliminate all noise impacts and the assessment fails to measure other sources:

a. the rail to wheel curve squeal from the tight interconnect curve
b. the additional noise of the locomotives as it throttles up both the southern interconnect ramp and grade change at the northern connection,
c. trains traveling west will need to use their brakes to maintain a slow speed going down grade and through curves
d. diminished livability from the introduction of night freight traffic
e. the amount of time exposed to the noise impacts of the stationary crossing bells will increase significantly due to increase in train numbers.

The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option.

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- Multiple grade level crossings
- Proximity to St. Louis Park schools, homes and businesses – many are closer than the length of a rail car
- Number of pedestrians who transverse crossing every day
- Permeable soil under MN&S
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- Hazardous materials are being carried on the rail line without sufficient right of way.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Michael Kottke

Address: 2712 Brunswick Avenue South

City/State/zip: St. Louis Park MN 55416

Telephone: 952-920-8363 E-Mail:

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Unsubstantiated assertions include the depiction in the DEIS that the historical character of the Kenilworth corridor (Chapter 3, page 58) would be compromised by its continued use for freight train traffic. The Kenilworth corridor was the home to not just railroad tracks, but an entire railroad yard for over one hundred years, beginning long before the current homes in the area were built.

Inexplicably omitted from the DEIS is how the re-route would be funded (Chapters 5 and 8). The re-route must be considered as part of the SWLRT and even without mitigation construction of the interconnect and upgrading the tracks on the MN&S to handle the heavier traffic is estimated to cost $125,000,000, money that was not originally included in the projected cost of the SWLRT, but the projected budget for the SWLRT has not been adjusted to recognize the added expense. Also, missing from the cost estimates are the costs for maintaining the interconnect structure after it is built.

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St. Louis Park, MN 55416

RECEIVED
DEC 28 2012
BY:

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

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with loss of property value in the re-route area should be in Chapter 9: Indirect Impacts, but it is not, and this causes me great concern. The SWLRT-DEIS does not mention the impact of re-routed freight trains from a main line fright corridor to a bridge line on property values of the re-route area. Freight rail re-routes are not exclusive to Minnesota and the cost of the re-routes to residents has been documented. For example, according to an article in a 2001 issue of The Appraisal Journal bringing additional freight rail traffic to an area will negatively affect properties 250' feet from the rail tracks by 5-7%. All of the properties along the MN&S are well with in 250'. Based on this article one can conclude that property values along the MN&S will drop more than 7%. Two major questions arise that are not addressed in the SWLRT-DEIS. First, what happens to the tax base of St. Louis Park when the drop in value is realized? Second, how are property owners who lose value because of this government action going to be compensated for their loss? It is unreasonable for the Hennepin County to ask any resident to pay a higher price for the benefits of light rail than others.

Name: Lois Gibbs

Address: 2704 Brunswick Avenue South

City/State/zip: St. Louis Park, MN 55416

Telephone: 952-929-2497 E-Mail:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

Besides my general concerns about the freight rail re-route, the section of the SWLRT DEIS that describes the noise and vibration has flawed methods and conclusions. The vibration and the noise measurements were done with current MN&S traffic. It is important to note that the re-routed freight will be longer, more frequent, and include more locomotives per train.

Vibration, Chapter 4.8.4: The conclusion that vibration will have no significant impacts is incorrect Vibration impacts will be longer in time and the total amount will increase with the heavier freight and additional locomotives.

Noise, Chapter 4.7.5:

Quiet zones: The DEIS fails to describe the real world issues with the quiet zone. The SLP Senior High is both bookended by two blind curves and has athletic facilities on both sides of the tracks. The operating rail company, TC&W, has stated in a public document that it has safety concerns with a quiet zone due to the proximity of the tracks to schools, residents, and businesses. It will be impossible to design a quiet zone that will be both safe for the area while maintaining access for the adjacent Senior High school and local businesses. The quiet zone is listed as mitigation for noise impacts but it is a mitigation that is not supported by the neighborhoods, school board, or the operating rail companies.

A quiet zone will not eliminate all noise impacts and the assessment fails to measure other sources:

a. the rail to wheel curve squeal from the tight interconnect curve
b. the additional noise of the locomotives as it throttles up both the southern interconnect ramp and grade change at the northern connection,
c. trains traveling west will need to use their brakes to maintain a slow speed going down grade and through curves
d. diminished livability from the introduction of night freight traffic
e. the amount of time exposed to the noise impacts of the stationary crossing bells will increase significantly due to increase in train numbers.

The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option.

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with the closing of the 29th street crossings (Chapter 3/p. 135) causes me the greatest concern. Residents from the Birchwood neighborhood requested on behalf of the Birchwood neighborhood that the grade crossing at 29th Street stay open. According to page 135 of the DEIS the 29th street crossing is being closed as a mitigation measure. However, the closing of the crossing will not benefit the neighborhood; it will, in fact, jeopardize residents because it will make emergency vehicle access difficult—if not impossible—during winter months due to narrowed streets.

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Examples of concerns include but are not limited to the following:

- A plan for emergency evacuation of the school should evacuation be necessary when a train is passing
- How will the many classrooms affected by train noise be sound proofed
- How will the students who want to use the new rail bridge to cross Hwy. 7 on their way to school be kept off the bridge.
- How will the added vibration of longer, heavier and more frequent trains be mitigated to the investment the school makes in technology is not lost.
- How will the safety hazards of blind crossings, curves and hundreds of teenagers in close proximity be eliminated
- How will a derailment be prevented so our children's lives are not at risk

None of the mitigation requested by the City of St. Louis Park or the St. Louis Park School Board on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Steve Olson
Address: 7214 Vincent Av. S.
City/State/zip: Richfield MN 55423
Telephone: 6128618891 E-Mail:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

Besides my general concerns about the freight rail re-route, the section of the SWLRT DEIS that describes the noise and vibration has flawed methods and conclusions. The vibration and the noise measurements were done with current MN&S traffic. It is important to note that the re-routed freight will be longer, more frequent, and include more locomotives per train.

Vibration, Chapter 4.8.4: The conclusion that vibration will have no significant impacts is incorrect Vibration impacts will be longer in time and the total amount will increase with the heavier freight and additional locomotives.

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A quiet zone will not eliminate all noise impacts and the assessment fails to measure other sources:

a. the rail to wheel curve squeal from the tight interconnect curve
b. the additional noise of the locomotives as it throttles up both the southern interconnect ramp and grade change at the northern connection,
c. trains traveling west will need to use their brakes to maintain a slow speed going down grade and through curves
d. diminished livability from the introduction of night freight traffic
e. the amount of time exposed to the noise impacts of the stationary crossing bells will increase significantly due to increase in train numbers.

The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option.

Name: Steve Shaw
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Telephone: 612 861 8891 E-Mail:

Steve Shaw
7214 Vincent Avenue South
Richfield, MN 55423

RECEIVED
DEC 28 2012
BY:

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

To Whom It May Concern:

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with freight rail trains blocking street crossings (6-38 and 39) causes me the greatest concern. In the SWLRT-DEIS we are told the blocked crossings will not cause significant travel or safety issues. To the consultant sitting miles away the increase may seem insignificant, but to residents who must travel the area and rely on quick responses from emergency vehicles the 580% increase in blocked crossing time is unacceptable.

A supposed benefit of the proposed re-route is explained in chapter 1, pages 11 and 12 of the SWLRT-DEIS. According to the document Twin City and Western (TCW) freight trains will regularly travel north of St. Louis Park into Golden Valley, Crystal and New Hope. When the trains travel north they will have to cross Cedar Lake Road; however, no data is given for the impact of this blocked crossing.

Issues about blocked crossings not dealt with in the SWLRT-DEIS include, but are not limited to the following:

- Effects of multiple blocked crossings on residents' ability to move freely about their neighborhood
- Amount of time it takes congestion to clear once a train has passed.
    - Making turns from one street to another with backed up traffic
    - Pedestrian safety as traffic clears
- Possibility that trains will be going slower than the "worst case scenario" in the EAW – Trains often stop at McDonald's for train crews to have a break. When they resume travel they will NOT be going 10 mph.
- Medical response times can be affected
    - Narrow side streets will be blocked with waiting automobiles
    - Only one fire station has medical response
- When train volumes increase what will be done to alleviate auto traffic congestion

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Scott Wyberg
Address: 2717 Colorado Ave So
City/State/zip: St. Louis Park, MN 55416
Telephone: 952-920-7379 E-Mail: Swyberg@Comcast.net

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I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with Safety (3-132 and 133) causes me the greatest concern. Only a passing reference to safety and the proposed re-route is mentioned in the SWLRT-DEIS; however there are many features about the MN&S, which make it undesirable as a freight, rail main line. The reasons the MN&S is an unsafe main rail line include, but are not limited to the following:

- Multiple grade level crossings
- Proximity to St. Louis Park schools, homes and businesses – many are closer than the length of a rail car
- Number of pedestrians who transverse crossing every day
- Permeable soil under MN&S
- Medical emergency response hindered when crossings are blocked – only one fire station has emergency medical response (page 80)
- Tight Curves. Derailments are more likely to occur on curves than on straight track
- Hazardous materials are being carried on the rail line without sufficient right of way.

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Name: Scott Wyberg
Address: 2717 Colorado Ave So
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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with loss of property value in the re-route area should be in Chapter 9: Indirect Impacts, but it is not, and this causes me great concern. The SWLRT-DEIS does not mention the impact of re-routed freight trains from a main line fright corridor to a bridge line on property values of the re-route area. Freight rail re-routes are not exclusive to Minnesota and the cost of the re-routes to residents has been documented. For example, according to an article in a 2001 issue of The Appraisal Journal bringing additional freight rail traffic to an area will negatively affect properties 250' feet from the rail tracks by 5-7%. All of the properties along the MN&S are well with in 250'. Based on this article one can conclude that property values along the MN&S will drop more than 7%. Two major questions arise that are not addressed in the SWLRT-DEIS. First, what happens to the tax base of St. Louis Park when the drop in value is realized? Second, how are property owners who lose value because of this government action going to be compensated for their loss? It is unreasonable for the Hennepin County to ask any resident to pay a higher price for the benefits of light rail than others.

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The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. C

Besides my general concerns about the SWLRT-DEIS, I am particularly concerned with Chapter 12 (Public and Agency Coordination and Comments). NEPA 1500.2(d) states that the leading agency must "encourage and facilitate public involvement in decisions which affect the quality of the human environment." This regulation was clearly ignored in regards to the potential freight rail re-route issue. Hennepin County did not "encourage and facilitate" public involvement concerning this issue. In fact, Hennepin County refused attempts for public comments and concerns regarding the freight rail issue at all of the outreach meetings listed in table 12.1-1 and all of the community events listed in table 12.1-2. Public comments regarding the freight issue were denied at the 2008 Oct 7, 14, and 23 scoping meetings and the comment period that followed as listed in section 12.1.3.1. Public comments regarding the freight issue were refused at the 2010 May 18, 18 and 20 open houses. Most importantly, public comments regarding the freight issue were denied during the entire LPA section process. This included all of public hearings listed in section 12.1.4.1. In summary, all public comments regarding the freight rail issue were denied at all of SWLRT's major milestones leading up to the DEIS. Worse, the public was not made aware of the significant environmental impacts caused by SWLRT and the potential freight re-route because the freight issue was not discussed at any of the SWLRT meetings leading up to the DEIS. The only opportunity the public was given by Hennepin County to discuss the freight rail re-route was at the PMT meetings discussed in section 12.1.5. However, any discussion of possible alternatives to the re-route (co-location) or the freight re-route's connection with SWLRT was strictly forbidden at these PMT meetings. Lastly, the DEIS fails to mention the 2011 April 17 and 28 freight re-route listening sessions that were held by the city of St. Louis Park. Hundreds of St. Louis Park residents voiced their opposition to the freight re-route. Because those opposed to the re-route have been denied comment during the entire SWLRT planning process leading up to the DEIS, the freight rail issue needs to be dropped or significant more work needs to be done on the alternative studies and public outreach. L2

Thank You,

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Address: 2717 Colorado Ave So
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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with the closing of the 29th street crossings (Chapter 3/p. 135) causes me the greatest concern. Residents from the Birchwood neighborhood requested on behalf of the Birchwood neighborhood that the grade crossing at 29th Street stay open. According to page 135 of the DEIS the 29th street crossing is being closed as a mitigation measure. However, the closing of the crossing will not benefit the neighborhood; it will, in fact, jeopardize residents because it will make emergency vehicle access difficult—if not impossible—during winter months due to narrowed streets.

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Riddled with phantom assumptions, unsubstantiated assertions, and inexplicable omissions, the DEIS is not a serious attempt to consider the effect of the proposed re-route.

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Unsubstantiated assertions include the depiction in the DEIS that the historical character of the Kenilworth corridor (Chapter 3, page 58) would be compromised by its continued use for freight train traffic. The Kenilworth corridor was the home to not just railroad tracks, but an entire railroad yard for over one hundred years, beginning long before the current homes in the area were built.

Inexplicably omitted from the DEIS is how the re-route would be funded (Chapters 5 and 8). The re-route must be considered as part of the SWLRT and even without mitigation construction of the interconnect and upgrading the tracks on the MN&S to handle the heavier traffic is estimated to cost $125,000,000, money that was not originally included in the projected cost of the SWLRT, but the projected budget for the SWLRT has not been adjusted to recognize the added expense. Also, missing from the cost estimates are the costs for maintaining the interconnect structure after it is built.

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Scott Wyberg
2717 Colorado Avenue South
St. Louis Park, MN 55416

RECEIVED
DEC 28 2012
BY:

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

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Name: [illegible]

Address: 2716 Brunsbrook Ave S

City/State/zip: SLP 55416

Telephone: 952-929-7682 E-Mail:

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Name: BRAD ARMSTRONG
Address: 2716 BRUNSWICK AVE S.
City/State/zip: SLP 55416
Telephone: 952 929-7682 E-Mail:

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Name: [illegible]
Address: 2716 Brunswick Ave S
City/State/zip: SLP 55416
Telephone: 952 927 7682 E-Mail:

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Besides my general concerns about the SWLRT-DEIS, I am particularly concerned with Chapter 12 (Public and Agency Coordination and Comments). NEPA 1500.2(d) states that the leading agency must "encourage and facilitate public involvement in decisions which affect the quality of the human environment." This regulation was clearly ignored in regards to the potential freight rail re-route issue. Hennepin County did not "encourage and facilitate" public involvement concerning this issue. In fact, Hennepin County refused attempts for public comments and concerns regarding the freight rail issue at all of the outreach meetings listed in table 12.1-1 and all of the community events listed in table 12.1-2. Public comments regarding the freight issue were denied at the 2008 Oct 7, 14, and 23 scoping meetings and the comment period that followed as listed in section 12.1.3.1. Public comments regarding the freight issue were refused at the 2010 May 18, 18 and 20 open houses. Most importantly, public comments regarding the freight issue were denied during the entire LPA section process. This included all of public hearings listed in section 12.1.4.1. In summary, all public comments regarding the freight rail issue were denied at all of SWLRT's major milestones leading up to the DEIS. Worse, the public was not made aware of the significant environmental impacts caused by SWLRT and the potential freight re-route because the freight issue was not discussed at any of the SWLRT meetings leading up to the DEIS. The only opportunity the public was given by Hennepin County to discuss the freight rail re-route was at the PMT meetings discussed in section 12.1.5. However, any discussion of possible alternatives to the re-route (co-location) or the freight re-route's connection with SWLRT was strictly forbidden at these PMT meetings. Lastly, the DEIS fails to mention the 2011 April 17 and 28 freight re-route listening sessions that were held by the city of St. Louis Park. Hundreds of St. Louis Park residents voiced their opposition to the freight re-route. Because those opposed to the re-route have been denied comment during the entire SWLRT planning process leading up to the DEIS, the freight rail issue needs to be dropped or significant more work needs to be done on the alternative studies and public outreach. L2

Thank You,

Name: [illegible]
Address: 2716 Brunswick
City/State/zip: SLP 55416
Telephone: 952 929 7682 E-Mail:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

Besides my general concerns about the freight rail re-route, the section of the SWLRT DEIS that describes the noise and vibration has flawed methods and conclusions. The vibration and the noise measurements were done with current MN&S traffic. It is important to note that the re-routed freight will be longer, more frequent, and include more locomotives per train.

Vibration, Chapter 4.8.4: The conclusion that vibration will have no significant impacts is incorrect Vibration impacts will be longer in time and the total amount will increase with the heavier freight and additional locomotives.

Noise, Chapter 4.7.5:

Quiet zones: The DEIS fails to describe the real world issues with the quiet zone. The SLP Senior High is both bookended by two blind curves and has athletic facilities on both sides of the tracks. The operating rail company, TC&W, has stated in a public document that it has safety concerns with a quiet zone due to the proximity of the tracks to schools, residents, and businesses. It will be impossible to design a quiet zone that will be both safe for the area while maintaining access for the adjacent Senior High school and local businesses. The quiet zone is listed as mitigation for noise impacts but it is a mitigation that is not supported by the neighborhoods, school board, or the operating rail companies.

A quiet zone will not eliminate all noise impacts and the assessment fails to measure other sources:

a. the rail to wheel curve squeal from the tight interconnect curve
b. the additional noise of the locomotives as it throttles up both the southern interconnect ramp and grade change at the northern connection,
c. trains traveling west will need to use their brakes to maintain a slow speed going down grade and through curves
d. diminished livability from the introduction of night freight traffic
e. the amount of time exposed to the noise impacts of the stationary crossing bells will increase significantly due to increase in train numbers.

The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option.

Name: BRAD ARMSTRONG

Address: 2716 Brunswick

City/State/zip: SLP 55416

Telephone: _____ E-Mail: _____

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with Safety (3-132 and 133) causes me the greatest concern. Only a passing reference to safety and the proposed re-route is mentioned in the SWLRT-DEIS; however there are many features about the MN&S, which make it undesirable as a freight, rail main line. The reasons the MN&S is an unsafe main rail line include, but are not limited to the following:

- Multiple grade level crossings
- Proximity to St. Louis Park schools, homes and businesses – many are closer than the length of a rail car
- Number of pedestrians who transverse crossing every day
- Permeable soil under MN&S
- Medical emergency response hindered when crossings are blocked – only one fire station has emergency medical response (page 80)
- Tight Curves. Derailments are more likely to occur on curves than on straight track
- Hazardous materials are being carried on the rail line without sufficient right of way.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

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Name: BRAD ARMSTRONG

Address: 2716 Brunswick Ave S

City/State/zip: SLP 55416

Telephone: _____ E-Mail: _____

Brad Armstrong
2716 Brunswick Avenue South
St. Louis Park, MN 55416

RECEIVED
DEC 28 2012
BY:

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

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The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option.

Name: Michele Maurer
Address: 2748 Brunswick Ave S
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Telephone: 952 928 8458 E-Mail:

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with loss of property value in the re-route area should be in Chapter 9: Indirect Impacts, but it is not, and this causes me great concern. The SWLRT-DEIS does not mention the impact of re-routed freight trains from a main line fright corridor to a bridge line on property values of the re-route area. Freight rail re-routes are not exclusive to Minnesota and the cost of the re-routes to residents has been documented. For example, according to an article in a 2001 issue of The Appraisal Journal bringing additional freight rail traffic to an area will negatively affect properties 250' feet from the rail tracks by 5-7%. All of the properties along the MN&S are well with in 250'. Based on this article one can conclude that property values along the MN&S will drop more than 7%. Two major questions arise that are not addressed in the SWLRT-DEIS. First, what happens to the tax base of St. Louis Park when the drop in value is realized? Second, how are property owners who lose value because of this government action going to be compensated for their loss? It is unreasonable for the Hennepin County to ask any resident to pay a higher price for the benefits of light rail than others.

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Name: M Maurer
Address: 2748 Brunswick
City/State/zip: SLP MN 55416
Telephone: 952 928 8458 E-Mail:

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Riddled with phantom assumptions, unsubstantiated assertions, and inexplicable omissions, the DEIS is not a serious attempt to consider the effect of the proposed re-route.

Chapter 1 of the DEIS states that without the re-route the TC&W's only options for moving its freight will be to access the MN&S tracks by use of the notorious switching wye in St. Louis Park, or to transfer cargo from railcars to highway trucks. The unstated assumption behind this statement is that the current route used by the TC&W will be severed. Presenting the either/or assumption for the switching wye or highway trucks creates the illusion of a fait accompli, when in fact the TC&W's current route through the Kenilworth corridor is a viable alternative.

Unsubstantiated assertions include the depiction in the DEIS that the historical character of the Kenilworth corridor (Chapter 3, page 58) would be compromised by its continued use for freight train traffic. The Kenilworth corridor was the home to not just railroad tracks, but an entire railroad yard for over one hundred years, beginning long before the current homes in the area were built.

Inexplicably omitted from the DEIS is how the re-route would be funded (Chapters 5 and 8). The re-route must be considered as part of the SWLRT and even without mitigation construction of the interconnect and upgrading the tracks on the MN&S to handle the heavier traffic is estimated to cost $125,000,000, money that was not originally included in the projected cost of the SWLRT, but the projected budget for the SWLRT has not been adjusted to recognize the added expense. Also, missing from the cost estimates are the costs for maintaining the interconnect structure after it is built.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Michael Maurer

Address: 2748 Brunswick Ave S

City/State/zip: St Louis Park MN 55416

Telephone: 952 928 8458 E-Mail:

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with freight rail noise and safety at the High School (Chapters 3, 4, and 9) causes me the greatest concern. The unique noise and safety issues associated with locating main line freight within 35 feet of the High School parking lot and 75 feet from the building are not adequately discussed. When the High School is mentioned the information is dismissive. At no point in the SWLRT –DEIS are the negative impacts the extra freight trains will have on the learning environment and safety of the students at St. Louis Park High School. Before the proposed re-route should even be considered the cost of sufficiently mitigating the impact to St. Louis Park High School need to be evaluated.
Examples of concerns include but are not limited to the following:

- A plan for emergency evacuation of the school should evacuation be necessary when a train is passing
- How will the many classrooms affected by train noise be sound proofed
- How will the students who want to use the new rail bridge to cross Hwy. 7 on their way to school be kept off the bridge.
- How will the added vibration of longer, heavier and more frequent trains be mitigated to the investment the school makes in technology is not lost.
- How will the safety hazards of blind crossings, curves and hundreds of teenagers in close proximity be eliminated
- How will a derailment be prevented so our children's lives are not at risk

None of the mitigation requested by the City of St. Louis Park or the St. Louis Park School Board on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Michele Maurer
Address: 2748 Brunswick Ave S
City/State/zip: SLP MN 55416
Telephone: 952 928 8458 E-Mail:

Draft Environmental Impact Statement Comment Form

Southwest Transitway Project

Federal and state environmental rules require that an Environmental Impact Statement (EIS) be prepared for the proposed Southwest Transitway project. The EIS process includes the preparation of a Draft Environmental Impact Statement (DEIS), which must be made available for public review and comment.

The DEIS discusses: (1) the purpose and need for the project; (2) the alternatives considered; (3) the impacts of these alternatives; and (4) the agencies and persons consulted.

Comments on the DEIS will be accepted through December 11, 2012. All comments must be received by that date. Please include a return mailing address with all comments.

Public hearings on the DEIS will be held in November 2012. To learn more about the hearings, please visit www.southwesttransitway.org

Concerns:
- noise, noise, noise O5
- vibrations affecting structures P9
- cross walks + public safety P4
- traffic delays
- change in traffic flow D
- pollution if derailment occurs R1
- exit strategies for neighborhoods if derailment occurs M2
- loss of property value w/in +/-4 block perimeter of rail
- distraction in classroom (noise)

Name: M. Michele Maurer
Address: 2748 Brunswick Ave S
City/State/Zip: St Louis Park MN 55416
Telephone: 952 928 8458 Email: Michele.Maurer@genmills.com

Thank you!

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with the closing of the 29th street crossings (Chapter 3/p. 135) causes me the greatest concern. Residents from the Birchwood neighborhood requested on behalf of the Birchwood neighborhood that the grade crossing at 29th Street stay open. According to page 135 of the DEIS the 29th street crossing is being closed as a mitigation measure. However, the closing of the crossing will not benefit the neighborhood; it will, in fact, jeopardize residents because it will make emergency vehicle access difficult—if not impossible—during winter months due to narrowed streets.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Michele Maurer
Address: 2748 Brunswick
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Michele Maurer
2748 Brunswick Ave. South
St. Louis Park, MN 55416

RECEIVED
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Attn: Southwest Transitway
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Besides my general concerns about the SWLRT-DEIS, I am particularly concerned with Chapter 12 (Public and Agency Coordination and Comments). NEPA 1500.2(d) states that the leading agency must "encourage and facilitate public involvement in decisions which affect the quality of the human environment." This regulation was clearly ignored in regards to the potential freight rail re-route issue. Hennepin County did not "encourage and facilitate" public involvement concerning this issue. In fact, Hennepin County refused attempts for public comments and concerns regarding the freight rail issue at all of the outreach meetings listed in table 12.1-1 and all of the community events listed in table 12.1-2. Public comments regarding the freight issue were denied at the 2008 Oct 7, 14, and 23 scoping meetings and the comment period that followed as listed in section 12.1.3.1. Public comments regarding the freight issue were refused at the 2010 May 18, 18 and 20 open houses. Most importantly, public comments regarding the freight issue were denied during the entire LPA section process. This included all of public hearings listed in section 12.1.4.1. In summary, all public comments regarding the freight rail issue were denied at all of SWLRT's major milestones leading up to the DEIS. Worse, the public was not made aware of the significant environmental impacts caused by SWLRT and the potential freight re-route because the freight issue was not discussed at any of the SWLRT meetings leading up to the DEIS. The only opportunity the public was given by Hennepin County to discuss the freight rail re-route was at the PMT meetings discussed in section 12.1.5. However, any discussion of possible alternatives to the re-route (co-location) or the freight re-route's connection with SWLRT was strictly forbidden at these PMT meetings. Lastly, the DEIS fails to mention the 2011 April 17 and 28 freight re-route listening sessions that were held by the city of St. Louis Park. Hundreds of St. Louis Park residents voiced their opposition to the freight re-route. Because those opposed to the re-route have been denied comment during the entire SWLRT planning process leading up to the DEIS, the freight rail issue needs to be dropped or significant more work needs to be done on the alternative studies and public outreach. L2

Thank You,

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I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with the closing of the 29th street crossings (Chapter 3/p. 135) causes me the greatest concern. Residents from the Birchwood neighborhood requested on behalf of the Birchwood neighborhood that the grade crossing at 29th Street stay open. According to page 135 of the DEIS the 29th street crossing is being closed as a mitigation measure. However, the closing of the crossing will not benefit the neighborhood; it will, in fact, jeopardize residents because it will make emergency vehicle access difficult—if not impossible—during winter months due to narrowed streets.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

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Riddled with phantom assumptions, unsubstantiated assertions, and inexplicable omissions, the DEIS is not a serious attempt to consider the effect of the proposed re-route.

Chapter 1 of the DEIS states that without the re-route the TC&W's only options for moving its freight will be to access the MN&S tracks by use of the notorious switching wye in St. Louis Park, or to transfer cargo from railcars to highway trucks. The unstated assumption behind this statement is that the current route used by the TC&W will be severed. Presenting the either/or assumption for the switching wye or highway trucks creates the illusion of a fait accompli, when in fact the TC&W's current route through the Kenilworth corridor is a viable alternative.

Unsubstantiated assertions include the depiction in the DEIS that the historical character of the Kenilworth corridor (Chapter 3, page 58) would be compromised by its continued use for freight train traffic. The Kenilworth corridor was the home to not just railroad tracks, but an entire railroad yard for over one hundred years, beginning long before the current homes in the area were built.

Inexplicably omitted from the DEIS is how the re-route would be funded (Chapters 5 and 8). The re-route must be considered as part of the SWLRT and even without mitigation construction of the interconnect and upgrading the tracks on the MN&S to handle the heavier traffic is estimated to cost $125,000,000, money that was not originally included in the projected cost of the SWLRT, but the projected budget for the SWLRT has not been adjusted to recognize the added expense. Also, missing from the cost estimates are the costs for maintaining the interconnect structure after it is built.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

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C

Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with freight rail noise and safety at the High School (Chapters 3, 4, and 9) causes me the greatest concern. The unique noise and safety issues associated with locating main line freight within 35 feet of the High School parking lot and 75 feet from the building are not adequately discussed. When the High School is mentioned the information is dismissive. At no point in the SWLRT –DEIS are the negative impacts the extra freight trains will have on the learning environment and safety of the students at St. Louis Park High School. Before the proposed re-route should even be considered the cost of sufficiently mitigating the impact to St. Louis Park High School need to be evaluated.
Examples of concerns include but are not limited to the following:

- A plan for emergency evacuation of the school should evacuation be necessary when a train is passing
- How will the many classrooms affected by train noise be sound proofed
- How will the students who want to use the new rail bridge to cross Hwy. 7 on their way to school be kept off the bridge.
- How will the added vibration of longer, heavier and more frequent trains be mitigated to the investment the school makes in technology is not lost.
- How will the safety hazards of blind crossings, curves and hundreds of teenagers in close proximity be eliminated
- How will a derailment be prevented so our children's lives are not at risk

None of the mitigation requested by the City of St. Louis Park or the St. Louis Park School Board on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with freight rail trains blocking street crossings (6-38 and 39) causes me the greatest concern. In the SWLRT-DEIS we are told the blocked crossings will not cause significant travel or safety issues. To the consultant sitting miles away the increase may seem insignificant, but to residents who must travel the area and rely on quick responses from emergency vehicles the 580% increase in blocked crossing time is unacceptable.

A supposed benefit of the proposed re-route is explained in chapter 1, pages 11 and 12 of the SWLRT-DEIS. According to the document Twin City and Western (TCW) freight trains will regularly travel north of St. Louis Park into Golden Valley, Crystal and New Hope. When the trains travel north they will have to cross Cedar Lake Road; however, no data is given for the impact of this blocked crossing.

Issues about blocked crossings not dealt with in the SWLRT-DEIS include, but are not limited to the following:

- Effects of multiple blocked crossings on residents' ability to move freely about their neighborhood
- Amount of time it takes congestion to clear once a train has passed.
    - Making turns from one street to another with backed up traffic
    - Pedestrian safety as traffic clears
- Possibility that trains will be going slower than the "worst case scenario" in the EAW – Trains often stop at McDonald's for train crews to have a break. When they resume travel they will NOT be going 10 mph.
- Medical response times can be affected
    - Narrow side streets will be blocked with waiting automobiles
    - Only one fire station has medical response
- When train volumes increase what will be done to alleviate auto traffic congestion

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

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The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly used spur line into a main freight rail line, which will initially allow a 788% increase of rail car traffic. What the SWLRT-DEIS does not address, but should, are the real world impacts of this action on the affected area.

Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with Safety (3-132 and 133) causes me the greatest concern. Only a passing reference to safety and the proposed re-route is mentioned in the SWLRT-DEIS; however there are many features about the MN&S, which make it undesirable as a freight, rail main line. The reasons the MN&S is an unsafe main rail line include, but are not limited to the following:

- Multiple grade level crossings
- Proximity to St. Louis Park schools, homes and businesses – many are closer than the length of a rail car
- Number of pedestrians who transverse crossing every day
- Permeable soil under MN&S
- Medical emergency response hindered when crossings are blocked – only one fire station has emergency medical response (page 80)
- Tight Curves. Derailments are more likely to occur on curves than on straight track
- Hazardous materials are being carried on the rail line without sufficient right of way.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

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Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with loss of property value in the re-route area should be in Chapter 9: Indirect Impacts, but it is not, and this causes me great concern. The SWLRT-DEIS does not mention the impact of re-routed freight trains from a main line fright corridor to a bridge line on property values of the re-route area. Freight rail re-routes are not exclusive to Minnesota and the cost of the re-routes to residents has been documented. For example, according to an article in a 2001 issue of The Appraisal Journal bringing additional freight rail traffic to an area will negatively affect properties 250' feet from the rail tracks by 5-7%. All of the properties along the MN&S are well with in 250'. Based on this article one can conclude that property values along the MN&S will drop more than 7%. Two major questions arise that are not addressed in the SWLRT-DEIS. First, what happens to the tax base of St. Louis Park when the drop in value is realized? Second, how are property owners who lose value because of this government action going to be compensated for their loss? It is unreasonable for the Hennepin County to ask any resident to pay a higher price for the benefits of light rail than others.

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I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

C

The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

Besides my general concerns about the freight rail re-route, the section of the SWLRT DEIS that describes the noise and vibration has flawed methods and conclusions. The vibration and the noise measurements were done with current MN&S traffic. It is important to note that the re-routed freight will be longer, more frequent, and include more locomotives per train.

Vibration, Chapter 4.8.4: The conclusion that vibration will have no significant impacts is incorrect Vibration impacts will be longer in time and the total amount will increase with the heavier freight and additional locomotives.

Noise, Chapter 4.7.5:

Quiet zones: The DEIS fails to describe the real world issues with the quiet zone. The SLP Senior High is both bookended by two blind curves and has athletic facilities on both sides of the tracks. The operating rail company, TC&W, has stated in a public document that it has safety concerns with a quiet zone due to the proximity of the tracks to schools, residents, and businesses. It will be impossible to design a quiet zone that will be both safe for the area while maintaining access for the adjacent Senior High school and local businesses. The quiet zone is listed as mitigation for noise impacts but it is a mitigation that is not supported by the neighborhoods, school board, or the operating rail companies.

A quiet zone will not eliminate all noise impacts and the assessment fails to measure other sources:

a. the rail to wheel curve squeal from the tight interconnect curve
b. the additional noise of the locomotives as it throttles up both the southern interconnect ramp and grade change at the northern connection,
c. trains traveling west will need to use their brakes to maintain a slow speed going down grade and through curves
d. diminished livability from the introduction of night freight traffic
e. the amount of time exposed to the noise impacts of the stationary crossing bells will increase significantly due to increase in train numbers.

The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option.

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Elizabeth Wyberg
2717 Colorado Avenue South
St. Louis Park, MN 55416

RECEIVED
DEC 28 2012
BY:

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

2604

December 27, 2012

To Whom It May Concern:

I want to express my deep disappointment in a document that was supposed to be an objective and fair study of the freight-rail "problem" in the SWLRT DEIS.

I also want to take this opportunity to say, "Shame on Hennepin County" for once again wasting taxpayer money on a bogus report that divulges nothing but selfish, political motives. Shame on them. L4

My comments are limited to chapter three of the DEIS:

On page 3-19, the DEIS claims that six separate studies "concluded the best option for freight rail operations was to relocate the TC&W freight rail operations on the MN&S line." However, not one of these studies is named or presented. C

The chart provided on planned land use (p. 3-27) in the DEIS names three documents (the *Hennepin County Transportation Systems Plan*, the *Minneapolis Parks and Recreation Board Comprehensive Plan*, and the *Hennepin County Sustainable Development Strategy*) that demonstrate co-location as incompatible with existing land use. The first link leads to a web page not found, and the latter two to brochure-type documents expressing vision statements about transit possibilities rather than comments about freight operations.

Interestingly, the chart lists re-location of freight as compatible with St. Louis Park's land use plans in spite of the fact that the city's councils have passed four separate resolutions signed by two different mayors over the past two decades opposing rerouting freight from the Kenilworth Corridor to the MN&S. In addition, the DEIS fails to mention the SEH study funded by the city of St. Louis Park that found that the current freight line can co-locate with the proposed LRT, and it can do so more safely and much less expensively. Why aren't St. Louis Park's resolutions included in the DEIS at all? Is it because Hennepin County had no intention of every considering co-location? Is Hennepin County once again misrepresenting (lying about) the freight/LRT situation for the SWLRT project?

On page 3-60, the DEIS claims that relocating freight "would add only a small increase in freight traffic, significant impacts to community cohesion along the MN&S would not be anticipated." This is a bald-faced lie. The types of trains, length, weight, and material carried will change profoundly. This reroute is equivalent to sending highway-level car traffic down a residential

side street. The document itself acknowledges that the six at-grade intersections will be blocked for as long as 18 minutes with the longer unit trains currently running through the Kenilworth Corridor. The fact that five schools are within ½ mile of the MN&S—one as close as 75 feet from the track—should give anyone pause. However, this fact is essentially ignored by the comment that there will not be "significant impacts."

St. Louis Park community cohesion will dramatically change, and it will only bring negative consequences in the form of increased noise, vibrations, safety concerns, blocked intersections and so on. I am disgusted that so much ink has been spilled discussing the way co-location of freight and LRT "may affect the district's [in the Kenilworth corridor] overall feeling and setting"(3-79) in spite of the fact that freight currently runs through the district, yet there is no mention of how relocation will affect the feeling and setting of our neighborhoods in St. Louis Park. This DEIS is fundamentally biased and flawed.

Finally, and most importantly, the DEIS notices that the "increased number of trains" along the reroute "could impact the safety of trail users" near parks. What appalls me is that the DEIS does not discuss the safety impacts on the five schools within a half mile of the MN&S—especially considering that hazardous chemicals like ethanol will be regularly carried by the rerouted trains—chemicals that are not currently carried on the MN&S. Furthermore, the DEIS neglects to mention that rerouted trains will run over Highway 7 and Minnetonka Boulevard—two very busy roadways—and will be above grade for nearly a mile as it passes within 30 feet of homeowners' backyards.

This DEIS is an embarrassment. I am ashamed right now to be a resident of Hennepin County. I am furious that so much money has been used so politically, so carelessly.

The federal government asked for a legitimate study of the freight rail problem. Hennepin County instead resorted to creating a work of fiction. Shame on Hennepin County for such a flagrant violation of public trust.

Sincerely,

Kathryn Kottke

Kathryn Kottke
2712 Brunswick Avenue
St. Louis Park, MN 55416

Audubon

Kathryn Kottke
2712 Brunswick Ave S
Minneapolis MN 55416

RECEIVED
DEC 28 2012
BY:

Hennepin County
Housing, Community Works & Transit
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Ste 400
Minneapolis, MN 55415

2607

RECEIVED
DEC 28 2012
BY:

Comment #574

To Whom It May Concern:

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BY:

Comment #577

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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Issues about blocked crossings not dealt with in the SWLRT-DEIS include, but are not limited to the following:

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    - Making turns from one street to another with backed up traffic
    - Pedestrian safety as traffic clears
- Possibility that trains will be going slower than the "worst case scenario" in the EAW – Trains often stop at McDonald's for train crews to have a break. When they resume travel they will NOT be going 10 mph.
- Medical response times can be affected
    - Narrow side streets will be blocked with waiting automobiles
    - Only one fire station has medical response
- When train volumes increase what will be done to alleviate auto traffic congestion

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: Rachel Raz

Address: Ms. Rachel Raz
3031 Alabama Ave. S.
St. Louis Park, MN 55416

City/State/zip:

Telephone: 952 928 9225 E-Mail: rraz@usfamily.net

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly used spur line into a main freight rail line, which will initially allow a 250% increase in trains and a 650% increase of rail cars traffic. What the SWLRT-DEIS does not address, but should, are the real world impacts of this action on the affected area. C

Besides my general concerns about the SWLRT-DEIS, I am particularly concerned with Chapter 12 (Public and Agency Coordination and Comments). NEPA 1500.2(d) states that the leading agency must "encourage and facilitate public involvement in decisions which affect the quality of the human environment." This regulation was clearly ignored in regards to the potential freight rail re-route issue. Hennepin County did not "encourage and facilitate" public involvement concerning this issue. In fact, Hennepin County refused attempts for public comments and concerns regarding the freight rail issue at all of the outreach meetings listed in table 12.1-1 and all of the community events listed in table 12.1-2. Public comments regarding the freight issue were denied at the 2008 Oct 7, 14, and 23 scoping meetings and the comment period that followed as listed in section 12.1.3.1. Public comments regarding the freight issue were refused at the 2010 May 18, 18 and 20 open houses. Most importantly, public comments regarding the freight issue were denied during the entire LPA section process. This included all of public hearings listed in section 12.1.4.1. In summary, all public comments regarding the freight rail issue were denied at all of SWLRT's major milestones leading up to the DEIS. Worse, the public was not made aware of the significant environmental impacts caused by SWLRT and the potential freight re-route because the freight issue was not discussed at any of the SWLRT meetings leading up to the DEIS. The only opportunity the public was given by Hennepin L2

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DEC 28 2012
BY:

Rachel Raz

Ms. Rachel Raz
3031 Alabama Ave. S.
St. Louis Park, MN 55416

952 928 9225

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

C

The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly used spur line into a main freight rail line, which will initially allow 788% increase of rail car traffic. What the SWLRT-DEIS does not address, but should, are the real world impacts of this action on the affected area.

Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with freight rail noise and safety at the High School (Chapters 3, 4, and 9) causes me the greatest concern. The unique noise and safety issues associated with locating main line freight within 35 feet of the High School parking lot and 75 feet from the building are not adequately discussed. When the High School is mentioned the information is dismissive. At no point in the SWLRT –DEIS are the negative impacts the extra freight trains will have on the learning environment and safety of the students at St. Louis Park High School. Before the proposed re-route should even be considered the cost of sufficiently mitigating the impact to St. Louis Park High School need to be evaluated.
Examples of concerns include but are not limited to the following:

- A plan for emergency evacuation of the school should evacuation be necessary when a train is passing
- How will the many classrooms affected by train noise be sound proofed
- How will the students who want to use the new rail bridge to cross Hwy. 7 on their way to school be kept off the bridge.
- How will the added vibration of longer, heavier and more frequent trains be mitigated to the investment the school makes in technology is not lost.
- How will the safety hazards of blind crossings, curves and hundreds of teenagers in close proximity be eliminated
- How will a derailment be prevented so our children's lives are not at risk

None of the mitigation requested by the City of St. Louis Park or the St. Louis Park School Board on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

RECEIVED
DEC 28 2012
BY:

Name:_____

Address:_____ Ms. Rachel Raz
3031 Alabama Ave. S.
St. Louis Park, MN 55416

City/State/zip:_____

Telephone:_____ E-Mail:_____

Comment #580

DEC 28 2012
BY:

Draft Environmental Impact Statement Comment Form

Southwest Transitway Project

Federal and state environmental rules require that an Environmental Impact Statement (EIS) be prepared for the proposed Southwest Transitway project. The EIS process includes the preparation of a Draft Environmental Impact Statement (DEIS), which must be made available for public review and comment.

The DEIS discusses: (1) the purpose and need for the project; (2) the alternatives considered; (3) the impacts of these alternatives; and (4) the agencies and persons consulted.

Comments on the DEIS will be accepted through December 11, 2012. All comments must be received by that date. Please include a return mailing address with all comments.

Public hearings on the DEIS will be held in November 2012. To learn more about the hearings, please visit www.southwesttransitway.org

Name: Rachel Raz

Address: Ms. Rachel Raz
3031 Alabama Ave. S.
St. Louis Park, MN 55416

City/State/Zip:

Telephone: Email:

Thank you!

DEC 28 2012

C

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

Besides my general concerns about the freight rail re-route, the section of the SWLRT DEIS that describes the noise and vibration has flawed methods and conclusions. The vibration and the noise measurements were done with current MN&S traffic. It is important to note that the re-routed freight will be longer, more frequent, and include more locomotives per train.

Vibration, Chapter 4.8.4: The conclusion that vibration will have no significant impacts is incorrect Vibration impacts will be longer in time and the total amount will increase with the heavier freight and additional locomotives.

Noise, Chapter 4.7.5:

Quiet zones: The DEIS fails to describe the real world issues with the quiet zone. The SLP Senior High is both bookended by two blind curves and has athletic facilities on both sides of the tracks. The operating rail company, TC&W, has stated in a public document that it has safety concerns with a quiet zone due to the proximity of the tracks to schools, residents, and businesses. It will be impossible to design a quiet zone that will be both safe for the area while maintaining access for the adjacent Senior High school and local businesses. The quiet zone is listed as mitigation for noise impacts but it is a mitigation that is not supported by the neighborhoods, school board, or the operating rail companies.

A quiet zone will not eliminate all noise impacts and the assessment fails to measure other sources:

a. the rail to wheel curve squeal from the tight interconnect curve
b. the additional noise of the locomotives as it throttles up both the southern interconnect ramp and grade change at the northern connection,
c. trains traveling west will need to use their brakes to maintain a slow speed going down grade and through curves
d. diminished livability from the introduction of night freight traffic
e. the amount of time exposed to the noise impacts of the stationary crossing bells will increase significantly due to increase in train numbers.

The re-routing of freight will negatively impact the safety, livability, and community cohesion of residents, students, and communities. The SWLRT DEIS does not adequately describe the impacts and as such, the freight reroute should not be given any further consideration as an option.

Name: Rachel Raz

Address: Ms. Rachel Raz
3031 Alabama Ave. S.

City/State/zip: St. Louis Park, MN 55416

Telephone: E-Mail:

RECEIVED
DEC 28 2012
BY:

St. Louis Park City Council
5005 Minnetonka Blvd. St. Louis Park, MN 55416
November 2012

Dear _____,

C

I am writing to inform you that I have written a response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota. In my response I have pointed out why I believe the SWLRT-DEIS is flawed and why the MN&S re-route is not a viable alternative.

For months we have heard that the SWLRT – DEIS will look objectively at both Co-location and the proposed re-route. Instead of the promised objective document we received a SWLRT-DEIS that has significant flaws. This document makes sweeping generalizations, glaring omissions, assertions without substantiation and phantom assumptions. Nowhere does the SWLRT-DEIS address the real world impacts of this action will have on the affected area of St. Louis Park. Nowhere in the document is substantive mitigation offered to offset the many safety and livability issues raised by residents.

Until a comprehensive unbiased document is published that establishes the need for the proposed re-route, it is imperative that you enforce St. Louis Park City Council resolution Number 11-58.

Thank you,

Resident of St. Louis Park

Ms. Rachel Raz
3031 Alabama Ave. S.
St. Louis Park, MN 55416

RECEIVED
DEC 28 2012
BY:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly used spur line into a main freight rail line, which will initially allow a 788% increase of rail car traffic. What the SWLRT-DEIS does not address, but should, are the real world impacts of this action on the affected area.

Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with Safety (3-132 and 133) causes me the greatest concern. Only a passing reference to safety and the proposed re-route is mentioned in the SWLRT-DEIS; however there are many features about the MN&S, which make it undesirable as a freight, rail main line. The reasons the MN&S is an unsafe main rail line include, but are not limited to the following:

- Multiple grade level crossings
- Proximity to St. Louis Park schools, homes and businesses – many are closer than the length of a rail car
- Number of pedestrians who transverse crossing every day
- Permeable soil under MN&S
- Medical emergency response hindered when crossings are blocked – only one fire station has emergency medical response (page 80)
- Tight Curves. Derailments are more likely to occur on curves than on straight track
- Hazardous materials are being carried on the rail line without sufficient right of way.

None of the mitigation requested by the City of St. Louis Park on behalf of her residents is being considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

Name: _____

Address: _____ Ms. Rachel Raz
3031 Alabama Ave. S.
St. Louis Park, MN 55416

City/State/zip: _____

Telephone: _____ E-Mail: _____

RECEIVED
DEC 28 2012
BY:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In fact, the re-route will allow a 788% increase in the number of rail car traffic in this area. The increase of freight exposure will directly and negatively impact community health, cohesion of the neighborhoods adjacent to the tracks and educational quality within St Louis Park Schools. In addition, there will be negative impacts to the community at large. These impacts include but are not limited to, increased noise and vibration, increase in diesel fumes from laboring locomotives, loss of mobility with when multiple crossing are blocked simultaneously, decreased safety for home owners and students at the High School, decreased access to small businesses and a decrease in tax base caused by lower property values in the affected area. C

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents. C

Thank you,

Name: Linda Richardson-Beaird
Address: 3959 Dakota Ave. So.
City/State/Zip: St. Louis Park, MN 55416
Telephone: (612) 581-2904
E-Mail: linda130130@gmail.com

Safetynthepark.org

RECEI
DEC 28 2012
BY:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) - Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

Thank you,

Signature: Judith Terp Date: 12/11/12

Name: JUDITH TERP

Address: 4150 BROOKSIDE AVE

City/State/zip: S.L.P MN 55416

Telephone: 9529293549 E-Mail:

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BY:

~~32ND~~ Blackstone / Dakota to 32nd Right Right

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) - Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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E9

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

Thank you,

Signature: Mary C. Krafft Date: 12/19/12

Name: MARY C. KRAFFT

Address: 4139 Brookside Ave. S.

City/State/zip: St. Louis Park, MN. 55416

Telephone: 952-239-6556 E-Mail:

GIVE BACK TO Judy TERR

RECEIVED
DEC 28 2012
BY:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In detail, the re-route will allow a 788% increase of rail cars traffic. The increase of freight exposure will directly and negatively impact the community health and cohesion of the neighbors adjacent to the tracks. In addition, there will be negative impacts to the school system and educational quality within St Louis Park, including the decreased safety of students at the High School.

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school-children, our local businesses, and our residents.

Name: Kathryn Clayton
Address: 3357 Yosemite Ave
City/State/zip: St Louis Park MN 55416
Telephone: 926-1876 E-Mail:

RECEIVED
DEC 28 2012
BY:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

C

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I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school-children, our local businesses, and our residents.

Name: BILLY STEVE CLAYTON

Address: 3357 YOSEMITE AVE. S.

City/State/zip: ST LOUIS PARK

Telephone: 952-926-1876 E-Mail:

Comment #589

RECEIVED
DEC 28 2012
BY:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In fact, the re-route will allow a 788% increase in the number of rail car traffic in this area. The increase of freight exposure will directly and negatively impact community health, cohesion of the neighborhoods adjacent to the tracks and educational quality within St Louis Park Schools. In addition, there will be negative impacts to the community at large. These impacts include but are not limited to, increased noise and vibration, increase in diesel fumes from laboring locomotives, loss of mobility with when multiple crossing are blocked simultaneously, decreased safety for home owners and students at the High School, decreased access to small businesses and a decrease in tax base caused by lower property values in the affected area.

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

Thank you,

Name: Lowell and Karen Vickerman Lowell Vickerman Karen Vickerman

Address: 4120 Xenwood Avenue South

City/State/zip: St. Louis Park, MN 55416-3121

Telephone: (952) 929-1586 E-Mail: kaavickerman@aol.com

RECEIVED
DEC 28 2012
BY:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In fact, the re-route will allow a 788% increase in the number of rail car traffic in this area. The increase of freight exposure will directly and negatively impact community health, cohesion of the neighborhoods adjacent to the tracks and educational quality within St Louis Park Schools. In addition, there will be negative impacts to the community at large. These impacts include but are not limited to, increased noise and vibration, increase in diesel fumes from laboring locomotives, loss of mobility with when multiple crossing are blocked simultaneously, decreased safety for home owners and students at the High School, decreased access to small businesses and a decrease in tax base caused by lower property values in the affected area.

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

Thank you,

Name: Greg Lasica Greg LASICA
Address: 4110 Xenwood Ave S.
City/State/zip: SLP MN 55416
Telephone: 6124323645 E-Mail: CountLASICA@gmail.com

Comment #591

RECEIVED
DEC 28 2012
BY:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In fact, the re-route will allow a 788% increase in the number of rail car traffic in this area. The increase of freight exposure will directly and negatively impact community health, cohesion of the neighborhoods adjacent to the tracks and educational quality within St Louis Park Schools. In addition, there will be negative impacts to the community at large. These impacts include but are not limited to, increased noise and vibration, increase in diesel fumes from laboring locomotives, loss of mobility with when multiple crossing are blocked simultaneously, decreased safety for home owners and students at the High School, decreased access to small businesses and a decrease in tax base caused by lower property values in the affected area.

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

Thank you,

Name: Camille Lasica CAMILLE LASICA
Address: 4110 Kenwood Ave S.
City/State/zip: SLP MN 55416
Telephone: 6128396424 E-Mail: COUNTESSLASICA@gmail.com

RECEIVED
DEC 28 2012
BY:

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) - Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

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I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

Thank you,

Signature: _____ Date: 12/1/2012

Name: MARCIE PIETRS & TED MORGAN

Address: 4121 Xenwood Ave S.

City/State/zip: St Louis Pk MN 55416

Telephone: 952 925 2130 E-Mail: marcie@xenwood.com
ted@xenwood.com

lottminn@aol.com
12/29/2012 07:13 AM

To swcorridor@co.hennepin.mn.us
cc jacobsjeffrey@comcast.net, hallfinslp@gmail.com, spanoslpcouncil@gmail.com, suesanger@comcast.net, annemavityslp@comcast.net, susansanta@aol.com,
bcc
Subject Comment on SWLRT - DEIS

Thank you for reading the attached letter and including it in the public comment file on the SWLRT - DEIS
.

Linda Lott
2816 Xenwood Ave. South
St. Louis Park, MN 55416
(952) 836-0067
lottminn@aol.com

December 29, 2012

To Whom It May Concern:

C

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota. While I am not in opposition to light rail, I find it hard to believe that this reroute is the most viable option. This reroute - that winds through a community, within 75 feet of a high school, through hundreds of backyards , at a cost that is millions of dollars more expensive (and that is without factoring any mitigation costs which would be necessary just to ensure even the most basic safety and quality of life standards) - is this really the best we can do?

There are existing freight tracks through the Kenilworth Corridor that were designed and built to accommodate freight trains. These tracks are currently used multiple times a day, with minimal safety issues. The existing MN&S tracks through St. Louis Park were not built or designed for the kind of freight traffic being proposed. Multiple grade level crossings, the proximity to several St. Louis Park schools, homes and businesses, the number of pedestrians (mostly school-aged children) who cross the tracks daily, permeable soil under the MN&S line, and many tight curves along the route make this route highly questionable as a viable alternative for redirecting freight traffic.

None of the mitigation requested by the City of St. Louis Park on behalf of the residents are being considered in the DEIS. There is no mention in the DEIS of the negative impact to the quality of life, property values, safety & livability that this reroute would have on the St. Louis Park Community. In fact, there is inaccurate information in the DEIS with regard to noise and vibrations affecting St. Louis Park, as this was done using measurements from the current MN&S traffic which is far less than what the proposed reroute will entail. There is, however, a great deal of emphasis placed on how the current freight traffic affects the residents around the Kenilworth Corridor – which has been home to freight traffic for over one hundred years. Without taking full account of these factors, how can this “draft” even be considered?

We live about five blocks from the MN&S tracks so, while I am not particularly worried about freight trains through my backyard, I do have concerns about property values in the Birchwood neighborhood. However, I can’t imagine living in one of the 500 homes located within a block or two of the tracks and what a 100+ car freight train would sound like coming through my backyard. Or how the teachers at the high school will effectively deal with the horns, vibration and train noise less than 100 feet from their classrooms. I worry about the high school students who cross those tracks - en masse - multiple times a day getting from the school to McDonald’s (just across the tracks). I drop off my son every morning for school and the congestion around

that area is already substantial. What happens when/if a long freight train blocks the crossing for even 5-10 minutes? True, our community was built around those tracks, but tracks that were not built for 100+ car freight traffic.

I had been hearing about the proposed reroute for some time, but until I saw what this looked like on a map, it was incredible to me that this is the best option our Planning Commission can come up with. This DEIS contains so many flaws, omissions and inaccuracies, it is incredible that any informed decisions can be made with this as the template. Until the Commission has all the facts and an accurate assessment of the true costs for this reroute vs. collocation or other viable alternatives, any decisions made will be seen as purely political and a true indication of just how deals are done in Hennepin County. L4

Thank you for your consideration.

Linda Lott
2816 Xenwood Avenue South
St. Louis Park, MN 55416
952-836-0067
lottminn@aol.com

cc: St. Louis Park City Council

Christopher Cremons
<ccremons@gmail.com>
12/29/2012 10:44 AM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject Opposed to Southwest Light Rail Transit Proposal

Hello,
I am writing to voice my opposition to the current Southwest Light Rail proposal to route the freight rail traffic through St. Louis Park. Attached is a more detailed explanation of my reasoning.

C

Sincerely,

Christopher Cremons
--
Christopher Cremons, M.S.
Horizon Spatial Analytics
CEO
Cell:(651) 587-6189
ccremons@gmail.com

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. The current freight occurs five days a week, Monday- Friday, during normal business hours. The proposed action of re-routing freight would introduce mainline traffic and the community, residents, and students will be exposed to longer, heavier trains during weekends, evenings, and nighttime. In fact, the re-route will allow a 788% increase in the number of rail car traffic in this area. The increase of freight exposure will directly and negatively impact community health, cohesion of the neighborhoods adjacent to the tracks and educational quality within St Louis Park Schools. In addition, there will be negative impacts to the community at large. These impacts include but are not limited to, increased noise and vibration, increase in diesel fumes from laboring locomotives, loss of mobility with when multiple crossing are blocked simultaneously, decreased safety for home owners and students at the High School, decreased access to small businesses and a decrease in tax base caused by lower property values in the affected area.

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

Thank you,

Christopher Cremons
8560 Magnolia Trail, Apartment 424
Eden Prairie, MN 55344
ccremons@gmail.com

Ken Fairchild
<fairken@aol.com>
12/29/2012 12:11 PM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject Time to Open

Question: Is there any way to speed up when the line will be open? I have to believe that anyone with even limited vision/intelligence will be able to understand the positive impact that the light rail will have. The line will improve livability, access, aesthetics, and property values. A ten minute review of the now extensive transit system in Portland Oregon provide amble evidence of that. A

I recommend that the time frame for public review and comment on various phases be shortened or eliminated. I believe that there is evidence to show that it is rare that any value add input comes from this process for transit projects. L1

My hope is that we can have the line open by 2016, which is already two years longer than I would like to wait. T5

Best,

Ken Fairchild
Saint Louis Park Resident

farra005@umn.edu
12/29/2012 03:21 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject comment on LRT Draft Environmental Impact Statement

We are writing in response to the LRT draft environmental impact statement. We live across the street from the proposed 21st St. station (2515 W. 21st ST.) The draft environmental impact statement indicates:
Page 3-117

Four at-grade center-track platforms are proposed for each station in the segment. No sensitive receptors, with the exception of the aforementioned trail users, are located adjacent to the station sites; therefore no additional visual impacts are anticipated.

Comment: The study indicates that there will be substantial visual effects on trail users. However it claims that there are no other "sensitive receptors". This is not correct as we would be directly affected both visually and due continuous noise at both the station and the 21st street crossing. Plans for the station and street crossing must take this into account. In addition, this is not correct due to the amount of vibrations our house would receive from the frequent passage of trains. We currently experience the occasional vibratory and minor noise effects of the freight trains, but the light rail passing through this area is scheduled to pass by approximately every 5 minutes, and so this greatly increases the vibratory and noise impacts. We would like to see mitigation for the visual effects of the station, as well as the vibratory and noise effects of the trains. In addition, since the light rail will be stopped right at the street crossing we request that an exception be made to requirements that the train blow its horn and whistle when crossing 21st St, as that will have a clear negative impact on those living directly across from the station. We suggest a traffic light, as we also do not want to hear the constant noise of crossing gates. Finally, the statement also mentioned the possibility of a park and ride at this station stop. This would be against city of Minneapolis policy and clearly inappropriate for this neighborhood. We live in this neighborhood to be surrounded by the beauty of the trees and trails. The proposed station already greatly impacts this naturally beautiful area. A park and ride would further damage this area, and cause an increase in traffic, congestion, and noise.

E4
I2
O1
N2
I1, I2

Sincerely,

Michael Farrar
Marion Collins
2515 W. 21st St.
Minneapolis, MN 55405

Terry Saario
<tsaario@CLYNCH.COM>
12/29/2012 05:09 PM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc
bcc
Subject FW: Kenilwood Light Rail Project

From: Terry Saario <tsaario@clynch.com>
Date: Saturday, December 29, 2012 4:34 PM
To: "swcorridor@co.hennipen.mn.us" <swcorridor@co.hennipen.mn.us>
Subject: Kenilwood Light Rail Project

To Whom It May Concern: I have lived at 34 Park Lane for almost 14 years. My husband and I were attracted to this area because of the easy access to walking paths, bicycle paths, the abundance of wild life that share the environment with us, and relative lack of ambient noise and light. While we understand the necessity of dedicating the light rail project to a particular geographical area, we have become increasingly concerned about the level of degradation that the proposed Kenilwood light rail project will create at the intersection of Cedar Lake Parkway and the rails location. The proposed frequency of the trains will result in high volume noise and light disturbance. But I am particularly concerned about the increased noise, vibration, and light disturbance that a bridge over Cedar Lake Parkway would create. I would strongly urge the project planners consider creating a trough or tunnel for the train at that intersection. It would reduce the potential for serious accidents, mitigate noise and light, and do less damage to the environment. This might be the best win-win solution for the project. Thank you for your serious consideration of this suggestion. Terry Saario, 34 Park Lane, Mpls., 55416.

E8

N2

E8

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Damon Farber
<dbfarber@earthlink.net>
12/29/2012 05:15 PM
Please respond to
Damon Farber
<dbfarber@earthlink.net>

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject DEIS comments on SWLRT

From: Damon Farber
Sent: Saturday, December 29, 2012 5:01 PM
Subject: DEIS comments on SWLRT

To whom it may concern:

I previously submitted comments and since that time have found that some corrections and additions are called for. Please disregard previous email and substitute this refinement.

1. ***Chapter 3, Page 3-34, Segment A stipulates that under the co-location Option (LRT 3A-1) three homes on Burnham Road will be taken ("permanently used"). According the DEIS (Chapter 3, page 3-34, Segment A) those homes are" the first three single family homes north of Cedar Lake Parkway along Burnham Road". As many as 57 town homes north of the West Lake Station are also slated for removal. In addition there will be "disturbance" to parkland on the east side of Cedar Lake to accommodate a realigned Burnham Road where it intersects with Cedar Lake Parkway.***

Comment:

I questioned this at the November 13, 2012 open house/public hearing and both the Hennepin County and its engineering representative stated that it was an error that three homes on Burnham Road were to be taken. Rather two homes on Burnham Road (2650 and 2642) and one home on Park Lane (42) were the single family homes being considered for removal under the co-location scenario. There is no text describing any taking of private property on Burnham Road or Park Lane under Option LRT 3A, which assumes that the freight train would be moved to St Louis Park.

M4

2. ***Chapter 11, Page 11-3 of the DEIS indicates 4 properties, including .81 acres of Cedar Lake Park potentially used permanently.***

Comment

Is the .81 acres of park land referenced on page 11-3 the corner north of Cedar Lake Parkway and west of Burnham Road at Cedar Lake Park

E2

In that same table on page 11-3 under the LRT 3A Option it appears that only one property and the historic channel are to be "used" permanently.

Comment:

Is that "one property" a reference to 2650 Burnham Road or is it a reference to Cedar Lake Park? Neither the project engineer nor Hennepin County Community Works and Transit can confirm the addresses in either option. This needs to be clarified. Which properties are being alluded to in the DEIS for Options LRT 3A-1 and LRT 3A?

2. ***Chapter 4, Environmental effects regarding vibration.***

Comment

In October of this year I sent a note to the MPRB and to SW Transit/ Hennepin County Community Works asking for detailed information regarding design options for how the intersection of Cedar Lake Parkway with the Kenilworth Trail might be handled. I also asked for more definitive data on noise and vibration testing specific to that crossing. I was referred to the DEIS which it seems to me does not adequately address these aspects in enough detail to allow for reasonable conclusions. I appreciate that the Final EIS will be less general and have a more detailed scope with greater insight into site specific issues and adverse impacts of the LRT upon affected properties neighborhoods. The Hiawatha LRT corridor can prove a substantive, quantifiable example of what we along the Southwest LRT corridor might expect. As such, any references that addressed real construction and real resultant influences related to social, environmental and transportation impacts along the Hiawatha LRT corridor will be especially helpful for the layman to better understand and anticipate the impacts that will result from both construction and implementation along the SW Kenilworth LRT Corridor.

O1, O6, O7, O12

Vibration both during the construction process and after project completion may have serious ramification on nearby properties. I am obviously concerned about potential structural impacts and cracking to my home at 2650 Burnham Road which is at the corner of Cedar Lake Parkway and Burnham Road, during construction and following project completion. I respectfully request that you provide vibration readings/documentation for all the same locations identified above to ascertain if vibration, along with noise, might be shown from a quantifiable, historical perspective.

3. ***Chapter 4, page 4-84, 4.7.3.4 summarizes the sound exposure levels used in southwest transitway detailed noise analysis.***

Comment

This does not adequately address existing conditions. Quantitatively what is the current noise/decibel level at the intersection of Burnham Road with Cedar Lake Parkway? I assume that decibel readings were taken before, during, and after construction of the Hiawatha Line. For the purpose of comparison what was the noise level - prior to and following completion -

O1

inside and outside structures 100 ft and 150 ft from the center line of the Hiawatha LRT at East 32nd and East 53 Streets. Along Hiawatha berms, landscaping (noise cannot be mitigated by plantings) walls and a combination of the two were used. However, that is not possible at crossings. So again, it seems reasonable to ask for real, empirical, historical data to be provided that illustrates noise levels along the Hiawatha corridor at key intersections. Also there are two elevated bridges, one at East 28th and a second that crosses Hiawatha at Crosstown Hwy 62. Will you please provide the same before and after data for those two locations in case an LRT overpass is the final design solution at the Cedar Lake Parkway crossing?

O1, O7

V

The very thought of bells, whistles and sound emanating from the train as it crosses the historic Grand Rounds System at Cedar Lake Parkway, speeds through passive regional parkland, and imposes itself on the sensitive neighborhoods that abut the Kenilworth Corridor in Segment A is difficult to comprehend.

E4

4. ***Page 4-8 of the DEIS notes that there will be 198 trips between 7 am and 10 pm, 60 LRT trips between 10 pm and 7 am, 48 LRT trips between 6 am and 9 am and another 48 trips between 3 pm and 6:30 pm with speeds ranging from 20 to 50 miles per hour.***

Comment

Are the 104 trips between 6:00 am and 9:00 am and 3:00 pm and 6:30 pm in addition to the 258 trips between 7:00 am and 10:00 pm and 10:00 pm and 7:00 am or are they included in that total.

According to a 4/20/2010 technical memo by HDR Engineers, the LRT train will cross Cedar Lake Parkway every 3.75 minutes under the LRT 3A option. Will you please confirm this? Will you please confirm the gates will be down no longer than 30 seconds for each of the 258 or f the 354 trips? What is the design speed of the LRT if it is at grade where it crosses Cedar Lake Parkway? What is the speed if the LRT is elevated above Cedar Lake Parkway. Will you confirm that the bells at crossings will occur no longer than 5 seconds for each of the 354 crossing and will the train horn blast in addition?

E1

V

Please provide specific answers to each of these questions if the co-location Option(LRT3A1) is selected and if that option is selected exactly how many total freight trains per day should be expected and and at what times of day or night are they anticipated.

5. ***Chapter 6 notes that vehicular circulation was modeled based upon traffic counts for Cedar Lake Parkway and Burnham Road taken on February 16, 2010***.

Comment

It was determined that pedestrians, were not to be modeled ue to “low

pedestrian counts". This seems shortsighted. Would this same conclusion have been reached had the counts been taken almost at any time during the spring, summer or fall seasons when there is increased vehicular flow and much higher pedestrian traffic and bicycle movement along both Cedar Lake Parkway and the Kenilworth Bike Trail – both of which support a significant volume of pedestrians and bicyclers who use these two avenues for recreation and commuting? Have counts been taken that are not illustrated in the Draft EIS that might support a reassessment of the value and importance of the pedestrian and bicyclist. P8

The LPA with its flyover bridge proposed in the conceptual engineering plans would not have impacts upon any sensitive receptors.

Comment

The bridge example in photo 3.6-6.where the LRT bridges over Cedar Lake Parkway is completely unacceptable from an aesthetic, historic, sound. Nothing could be worse as a solution except an at grade crossing. From a safety standpoint there can be no question that an at-grade crossing is the least desirable solution. Bikers and pedestrians are regularly being hurt. An at grade crossing is unsafe as my wife can allude to after having been sent to the hospital for stitches after a major fall at the intersection of Cedar Lake Parkway with the railroad tracks. E8

Not enough study is reflected by the DEIS to adequately address the impact to wildlife, visual and aesthetic character, materials selection, and noise E2 E4

Any design solution eventually selected the engineers needs to be significantly more sensitive and must incorporate an historic recall and reference to other bridges in the Cedar, Isles, Dean neighborhoods that are integral to the Historic Grand Rounds and Parkway System. Also, a very significant concern beyond those identified above and in the DEIS is the visual mpact of a band of light emanating from the LRT train windows from dusk to dawn as the LRT streaks along the Kenilworth Corridor. Light trespass is a very real environmental impact that has not b een addressed in the DEIS and it should be. N2

Recently the MPRB, its consultant and a citizen advisory committee (CAC) proposed a middle ground solution where the LRT tracks begin to recede into a trench from a point north of the West Lake Street station to a point south the 21 Street Station. The historic Cedar Lake Parkway would arch over the recessed tracks from east of Cedar Lake Park and the Beach to meet grade on the east side of the proposed LRT trough. There are, to be sure, still pedestrian/ bike/auto and LRT conflicts where the tracks, Cedar Lake Parkway, Kenilworth Bike Trail and walking paths converge, but such a solution which would keep the LRT "low" and the Parkway with its more E0

pedestrian aspects “higher” seems like a reasonable compromise that could, with some creative engineering and design, allow all properties to remain, address many traffic and safety concerns, and respond to myriad environmental issues within a fiscally responsible approach. This is the creative type of thinking, conceptualization and approach that ought to be considered and endorsed.

Finally, serious consideration must be given to a tunnel Option for the LRT rather than a bridge or at-grade crossing at Cedar Lake Parkway. New, updated and modified economic data has just been added to the DEIS. Please advise why no analysis has been assigned to a tunnel / LRT underpass solution. I recognize that it is more expensive, including the need for to work outside the current ROW, but it is technically possible and the most environmentally friends solution. E0

Respectfully submitted,

Damon and Becky Farber
2650 Burnham Road, Minneapolis, MN 55416
612-298-9446 dbfarber@earthlink.net

arthur higinbotham
<ahiginbotham@msn.com>
12/29/2012 07:13 PM

To swcorridor <swcorridor@co.hennepin.mn.us>
cc Stuart A Chazin <stuart@chazingroup.com>, slfelicity <slfelicity@aol.com>, EldonJohn <eldonjohn@hotmail.com>, <thomas.johnson@gpmlaw.com>
bcc
Subject DEIS Response

The SWLRT DEIS is very nebulous on the mitigation that would be required. Since the aerial bridge over Cedar Lake Parkway and the channel between Cedar Lake/Lake of the Isles are 4f. issues, they are subject to the strictest requirements:

1. Grade separation is needed at Cedar Lake Parkway; traffic surveys conducted during summer months, not in February as the DEIS studies reports, will result in traffic back-ups on the east and west approaches to the crossing. Back-ups will extend on the east side to Dean Parkway and West Lake of the Isles Parkway due to cutting traffic flow to Lake St. at the intersection of Dean Parkway with Cedar Lake Parkway. Separate responses state why an LRT aerial bridge over Cedar Lake Parkway does not address issues of noise, vibration and visibility to the neighborhood. A partially submerged trench under the Parkway does not bring noise and visibility issues within an acceptable range; a fully submerged cut and cover tunnel is needed under Cedar Lake Parkway, extending to the southwest of the Calhoun Isles condos grain elevator tower and to the southwest of the Cedar Lake Shore Townhomes. Trenching will only dampen the sound created by LRT wheels and will still broadcast sound up the sides of the 14 story Calhoun Isles Condos grain elevator tower. As the MPRB CAC response points out, the bike trail should be submerged with the LRT, but with the LRT tunnel extending beyond the connection of the Kenilworth bike trail with the Midtown Greenway bike trail, so the latter can be connected at grade with no LRT crossings. E8

2. A bored tunnel underneath the Cedar Lake/Lake of the Isles channel is required so as not to disturb fish in and other wildlife around the channel as well as boaters using the channel. Since the LRT will already be submerged as it approaches Cedar Lake/Lake of the Isles channel, it should remain depressed until it enters the bored tunnel, surfacing north of the Burnham Bridge where the corridor widens and is an acceptable distance from residences adjacent to the corridor. G2

Arthur E. Higinbotham
3431 St. Louis Av., Minneapolis, Mn. 55416
Tel.: 612-926-9399

"Thorpe-Mease, Mary H" <MThorpe@CBBURNET.COM>
12/29/2012 08:53 PM

To <swcorridor@co.hennepin.mn.us>
cc <jmcolby@earthlink.net>, <wpmease@comcast.net>
bcc
Subject Concersn related to LRT in Kenwood

To whom it may concern:

Please accept the concerns in the attached memo that my husband, Bill Mease and I have regarding LRT at 21st Street. Feel free to call me if you have further questions.

My best,

Mary Thorpe-Mease
1944 Penn Ave So
Minneapolis, MN 55405
612-669-2806

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Re: SW LRT in Kenwood

My apologies for being so late in getting my thoughts to you.

Freight rail

D

If light rail is going through the Kenilworth Corridor leaving the freight trains in basically the same location would dramatically reduce property values in the area. Much of the parkland and trails would have to be eliminated. These things are part of what the area so desirable.

E4

Bridge over Cedar Lake Parkway

E8

Really!!! Realy ugly and lots of expense. Surely there is a better solution - especially for the kind of money that would have to be spent for such a bridge.

Preservation

N1

See my comments regarding the freight rail. I think it would be a mistake to change the park use beyond w hat might be necessary for the LRT.

Park & Ride

I1

I can not imagine where such a lot could be located. Why not just a stop? Many people will walk to the stop. Having grown up with street cars in the 50's I know that most walked to their stop. Granted there are more cars today but I really think LRT users will appreciate the opportunity to NOT use their cars for a few blocks.

The above issues are my biggest concerns. I do believe, however, that the KIAA has made excellent points related to the potential impact of LRT on our neighborhood.

Mary Thorpe-Mease

1944 Penn Ave So

12/29/12

Debra Berns
<debra_j_berns@yahoo.com>

12/29/2012 09:35 PM

To swcorridor@co.hennepin.mn.us
cc debra_j_berns@yahoo.com
bcc
Subject Comment Letter on DEIS for LRT Project

See Comment #789 for Theme Delineations

December 29, 2012

Hennepin County
Housing, Community Works & Transit
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415
swcorridor@co.hennepin.mn.us

Dear Project Manager,

Introduction:
This is a comment on the Draft Environmental Impact Statement ("DEIS") for the Southwest Transitway (LRT) project ("LRT Project"). As residential property owners of 2553 Washburn Ave. S., in the Cedar Isles Dean Neighborhood, we are personally and directly impacted by the LRT Project as our property is located between the proposed 21st Street and West Lake Street Stations immediately adjacent to Kenilworth Trail and the Kenilworth Corridor Bridge.

While there are many issues of importance related to the LRT Project, this comment letter will focus on specific themes related to the proposed 21st Street and West Lake Street stations and the area between these stations, as follows:

1. Re-Location of Freight Trains: We support the re-location of freight trains to accommodate light rail, and do not support the co-location alternative:

2. Environmental Effects: The DEIS is flawed in its analysis of noise and vibration implications and does not address light and electromagnetic concerns with regard to the location of the 21st Street and West Lake Street Stations and the area between these stations:

3. Social Effects: The DEIS is flawed in its conclusion that the operation of LRT along Segment A is not anticipated to adversely affect community cohesion.

Discussion:
1. Re-Location of Freight Trains:
The DEIS concluded (in the final paragraph of Chapter 11, pg. 11-11, 11.2.5) that the co-location of light rail and freight trains do not meet the project's purpose and need and is not a practicable alternative. As a result, co-location is not recommended as the environmentally preferred alternative. As impacted residential property owners, we agree completely with the conclusion that co-location is not a viable option.

A decision, however, to co-locate the freight and light rail would have material and detrimental effects on our property as it is not clear whether our property would need to be acquired to complete the project.

2. Environmental Effects (Noise, Vibration, Visual, and Electromagnetic Interference): As impacted residential property owners, we are significantly concerned about the environmental impacts of the LRT project due to the high number of trains that will travel by our property daily. The increase from a few freight trains per day to hundreds of LRT trains per day will drastically and severely impact our and our neighbors exposure to noise and vibration.

As to noise, our property is located in an area that is considered to have a "severe impact", and as a result, significant mitigation will be required. However, the impact of noise level and noise incident frequency has not been properly assessed in the DEIS. As a result, further study needs to be done.

Moreover, the DEIS incorrectly classifies Segment A property as Category 3 land use. However, in FTS's land use categories for Transit Noise Impact Criteria, Category 3 is most commonly associated with institutional land uses. In contrast, Category 1 is for tracts of land where quiet is an essential element on the intended purpose. The property in our neighborhood is aligned with Category 1 use – it is quiet, serene, and park-like. As a result, noise impacts should be re-evaluated under the standards set for Category 1 land uses.

As to vibration, while the DEIS (page 4-118, 4.8.6. Mitigation) provides that detailed vibration analysis will be conducted during the Final EIS, we urge that the range of frequencies and vibration incident frequency be taken into consideration.

The DEIS does not examine or discuss the impacts of LRT train light, corridor light, or the impact on presently dark areas of neighborhoods like ours. More analysis is necessary to determine the impacts and mitigation required.

In addition, the DEIS does not discuss potential health hazards related to electromagnetic interference for those people that live in close proximity (40 feet or less) to exposed overhead wires. Such information should be provided to the public and such hazards must be mitigated/avoided.

3. Social Effects Related to Segment A: The DEIS is flawed in its conclusion of the social effects related to Segment A. On page 3-58, the DEIS states that the implementation of LRT along the proposed Segment A "is not anticipated to adversely affect community cohesion because Segment A is currently bisected by a freight rail line and adding LRT service does not alter the existing barrier." This is unsubstantiated and incorrect, as currently, freight trains pass through infrequently, between 4-8 times per day, and the tracks are easily crossed. For example, there is an informal pathway immediately adjacent to our property that passes over the freight tracks and connects Washburn Ave. to Kenilworth trail, Kenwood Isles neighborhood and the Kenilworth Channel Bridge. High-speed high-frequency trains would absolutely eliminate the informal pathways, and would therefore create a barrier between CIDNA, the Kenilworth Trail and the Kenwood Isles neighborhood.

Conclusion:
As property owners that are directly impacted by the LRT Project, we respectfully request that you consider the above concerns related to the DEIS. We also urge you to consider all factors to assist in mitigation of short-term construction effects and long-term impacts related to noise, vibration, and visual effects of the LRT project between 21st Street and Lake Street. One possible solution could be a tunnel for the LRT to pass between the 21st Street and Lake Street Stations.

Thank you for the opportunity to comment. If you have any questions, please contact Debra Berns at (612) 208-0378 or debra_j_berns@yahoo.com

Sincerely,

Debra Berns
Amy Lederer
2553 Washburn Ave. S.
Minneapolis, MN 55416

Karen Hroma
<karenhroma@yahoo.com>

12/30/2012 11:26 AM

Please respond to
Karen Hroma
<karenhroma@yahoo.com>

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject Southwest LRT Comment

See Comment #508 for Theme Delineations

Karen Hroma
2752 Blackstone Ave
St. Louis Park, MN
55416

SOUTHWEST TRANSITWAY

DRAFT ENVIRONMENTAL IMPACT STATEMENT COMMENTS

Prepared By:

Safety in the Park
safetyinthepark@gmail.com
St. Louis Park, MN 55416

December 28,2012 — **Thom Miller, Co-Chair**
Safety in the Park

December 28, 2012 — **Jami LaPray, Co-Chair**
Safety in the Park

SAFETY IN THE PARK!

RESPONSE TO THE SOUTHWEST LIGHT RAIL TRANSIT PROJECT--DRAFT ENVIRONMENTAL IMPACT STATEMENT (DEIS)

DECEMBER 30, 2012

EXECUTIVE SUMMARY

Safety in the Park is a St. Louis Park, Minnesota grassroots, non-partisan neighborhood organization. Safety in the Park promotes safety and livability by working with the county, city, and state to create an alternative solution for proposed increases in freight rail traffic on the former Minneapolis Northfield and Southern (MN&S) Railroad tracks. Safety in the Park is politically unaffiliated and does not endorse any candidates for political office. Safety in the Park represents a large community of concerned citizens in St. Louis Park as evidenced by the attached 1,500 plus signatures on our petition. Safety in the Park welcomes the addition of Southwest Light Rail Transit to St. Louis Park and supports its implementation.

The MN&S freight rail relocation portion of the SWLRT-DEIS is not in the best interests of public safety, railroad operating efficiency or conserving public funds.

History of the proposed relocation: In the mid-1990s the Minnesota Department of Transportation (MnDOT) and Hennepin County decided to sever, instead of grade separate, the Milwaukee Road railroad line at Hiawatha Avenue and the repercussions of that decision remain to this day.

Because there is no documentation of analysis or of public input, it can only be assumed that MnDOT and Hennepin County blithely displaced freight traffic from a major piece of railroad infrastructure, the 29th Street corridor and planned to move the freight to the "preferred location" on the MN&S a little-known, little-used former electric interurban line, and gave no thought to the negative impact of this action. Due to contaminated land the move to the MN&S was delayed and the freight trains were instead moved to the Kenilworth Corridor which was owned by the Hennepin County Regional Rail Authority (HCRRA).

Since the move to the to Kenilworth Corridor, the HCRRA has worked tirelessly to remove the freight from the Corridor and establish the freight in MnDOT's "preferred location," the MN&S. Each time MnDOT or the HCRRA brings up the wish to move the freight traffic the City of St. Louis Park has answered with a resolution stating that re-routed freight traffic would not be welcomed in the city. The first resolution was passed in 1996 with subsequent resolutions in 2001, 2010 and 2011.

Instead of honoring the resolutions and negotiating a compromise, the HCRRA has repeatedly ignored the St. Louis Park resolutions, maligned and marginalized the residents of the MN&S study area and then moved forward with its plans citing “promises made “ to the residents of the Kenilworth area as the reason for the action. These promises have no foundation in fact; documentation of the specific nature of the promises, who made the promises and to whom they were officially made, and why the alleged promises should be afforded the weight of public policy, does not exist.

On May 16, 2011 MnDOT issued an Environmental Assessment Worksheet (EAW) that spelled out how a re-route of freight traffic from the Bass Lake Spur owned by the Canadian Pacific Railroad (CP) to the MN&S Spur also owned by the CP might take place. The City of St. Louis Park and Safety in the Park appealed the findings of the EAW document. The EAW was later vacated and is no longer a valid document.

On September 2, 2011 the Federal Transportation Administration officially added the MN&S re-route to the SWLRT project.

SWLRT-DEIS : The proposed MN&S re-route is included the SWLRT-DEIS due to the FTA’s September 2, 2011 mandate that the re-route be considered a part of the SWLRT project. For 3A (LPA, relocation) to work the MN&S re-route must occur, making the re-route part of the SWLRT and not a connected action. As part of the SWLRT project the MN&S re-route must be included in the “study area” on a regular and consistent basis but the SWLRT-DEIS fails in this regard and violates the essential purpose of the National Environmental Protection Act (NEPA). The purpose of NEPA is to ensure that environmental factors are weighted equally before an infrastructure project can be undertaken by a federal agency. The omission of the proposed re-route leads to incorrect conclusions about the cost of the SWLRT.

Safety in the Park demands that relocation of freight traffic be analyzed as diligently as the rest of the SWLRT project. Unless the current version of the SWLRT-DEIS is amended significantly, the health, well-being and safety of St. Louis Park residents will be compromised by the proposed relocation of mainline freight rail traffic from the Bass Lake Spur onto the MN&S Spur. More than 1,500 residents have signed a petition insisting on fair treatment by the government agencies proposing the relocation.

Concerns about the inconsistencies in the SWLRT-DEIS can be found in detail in the following summary:

- Lack of reasoning behind the need for the re-route due to the fact that a viable, less costly and safer option exists with co-location of freight traffic and SWLRT in the Kenilworth Corridor (Chapter 1)
- Lack of concern for Interstate Commerce
    - The late notification about the existence of the SWLRT-DEIS to the Surface Transportation Board (STB) Wednesday, November 28, 2012
    - Implementation of SWLRT could cause disruption of rail service to TC&W clients (Chapter 1)
    - The Memo Dated December 10, 2012 from the STB to the FTA received incomplete answers. (Chapter 1)
- Lack of public input and documentation (Chapters 2 and 12)
    - No documentation of analysis for determining MN&S as preferred location for freight after the freight tracks in the 29th Street Corridor were severed
    - No documentation of promises made to the residents of Kenilworth area
    - The MN&S re-route was not part of the scoping and decision making when route 3A (LPA, relocation) was chosen
- Lack of accurate study into the direct impacts of the proposed relocation with respect to
    - Social Impacts (Chapter 3)
    - Environmental Impacts (Chapter 4)
    - Economic Effects (Chapter 5)
    - Transportation Effects (Chapter 6)
    - Section 4(f) Evaluation (Chapter 7) - Specifically the use of 0.81 acres of Cedar Lake Park which is currently being used for freight trains.
- Lack of inclusion of methodology used to determine the cost of the SWLRT project. (Chapter 8) This lack of methodology is particularly glaring in light of the fact that a $100,000,000 “typo” occurred
- Lack of an analysis of the indirect and cumulative impacts caused by the proposed freight relocation (Chapter 9)
- Lack of analysis of Environmental Justice (Chapter 10)
- Lack of 23 CFR 771.111(f) analysis to determine if the relocation of freight is “feasible or prudent” (Chapter 11)

Action requested: Halt any decision on the freight relocation issue until further study is completed such that the missing information and flawed assumptions can be addressed. This secondary study needs to have a scope agreed upon by the city of St. Louis Park, Safety in the Park, and railroad companies. Furthermore, the secondary study must be conducted by a government agency and engineering firm not previously associated with the proposed re-route.

Once the new study is completed, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed re-route prior to making decisions.
Conclusion of analysis of this SWLRT-DEIS response: Applying the "test" from 23 CFR Sec. 774.17 reveals that the proposed reroute in LRT 3A (LPA) is neither "feasible nor prudent." Therefore, the use of 0.81 acres of Cedar Lake Park according to the Act of 1966 codified at 49 U.S.C. 303 and 23 U.S.C. 138 will not impede the building of SWLRT.

LRT 3A-1 (Co-location) best meets the Southwest Transitway project's Purpose and Need Statement as expressed by the goals of improving mobility, providing a cost-effective and efficient travel option, preserving the environment, protecting quality of life, supporting economic development, and developing and maintaining a balanced and economically competitive multimodal freight system. **In light of the facts presented in this SWLRT-DEIS response Safety in the Park recommends that LRT 3A-1 (Co-location) be chosen as the only viable option for SWLRT.**

CHAPTER 1 - PURPOSE AND NEED FOR THE PROPOSED ACTION:

1.0 - The essential purpose of the National Environmental Protection Act (NEPA) is to ensure that environmental factors are weighted equally before an infrastructure project can be undertaken by a federal agency. The SWLRT-DEIS does not fulfill the essential purpose of NEPA. The SWLRT-DEIS is not an objective analysis of the environmental impacts of the proposed freight rail re-route (3A, LPA re-route) and the proposed co-location freight rail alternative (3A -1 LPA co-location). Instead of being objective the SWLRT-DEIS is written as an advocacy for the favored outcome. SWLRT-DEIS employs a variety of methods to mislead the reader and the Federal Transportation Administration into believing that co-location is not a "feasible or prudent" (NEPA [23 CFR 771.111(f)]) alternative, when in fact the exact opposite is true. The methods used include, but are not limited to inconsistent use of vocabulary, highlighting aspects of co-location while glossing over the same aspects of relocation, manipulation of the co-location site to include more area and completely omitting information about the re-route option that would call the feasibility of that option into question.

1.1 - Although Safety in the Park! does not disagree with the need for the Southwest Light Rail Transit (SWLRT) Project, we do disagree with the need for the re-routing of freight trains from what is referred to in the SWLRT - DEIS as the Canadian Pacific(CP) Bass Lake Spur to the Minneapolis, Northfield and Southern (MN&S) Subdivision and the Burlington Northern Santa Fe (BNSF) Wayzata Subdivision. Using the term "Subdivision" in relation to the MN&S is not only incorrect it but it is also misleading. According to officials at the CP the correct classification of the MN&S is a spur line that is part of the Paynesville Subdivision. The use of the term subdivision when describing both the MN&S and the BNSF in St. Louis Park misleads the reader into thinking the MN&S and the BNSF are similar if not equal in layout and usage. This could not be further from the truth. The Bass Lake Spur and the BNSF Wayzata Subdivision were both built to Main Line rail specifications. They both have wide R-O-W, few if any at grade crossings and they are relatively straight and free of grade changes. Conversely, the MN&S was built as an electric interurban and like all interurban has tight R-O-W, multiple aggressive curves and significant grade changes. Furthermore, the addition of the connections between these freight rail lines will increase both curves and grades on the MN&S. The connection between the Bass Lake Spur and the MN&S will have and eight degree curve and a grade of .86%. While the connection between the MN&S and Wayzata Subdivision will have a four degree curve and a 1.2% grade differential. (SWLRT-DEIS Appendices F parts 2 and 3 and SEH http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf) Adding to the misrepresentation of the different rail lines is the name given to the rail property owned by the Hennepin County Regional Rail Authority, locally and recently known as the Kenilworth Corridor. This "corridor" was until it was purchased by Hennepin County a major, mainline rail yard called the Kenwood Yard. This yard held as many as 14 sets of railroad tracks and with the exception of a short section, the land used as a rail yard has not been built upon.

The misrepresentation continues at the bottom of page 1-1 of the SWLRT-DEIS in the second bullet point which states, “The co-location of LRT and TC&W freight rail service on reconstructed freight rail tracks on the CP’s Bass Lake Spur and HCRRA’s Cedar Lake (Kenilworth Corridor)”suggesting that the TC&W tracks in the Kenilworth Corridor had to be “reconstructed” when in fact they had never been removed, and only underwent repairs to put them back into service (1-1). (Safe in the Park - Chapter 1 Appendix – Document 4)

A formal abandonment process never took place (an outline of this history was found in a document, T:TRE/3aTransitPlanning/Kwalker/SLP_FreightRail/BackgroundforHCRRA_120709.doc, obtained from the HCRRA through the Freedom of Information Act). (Hennepin County Repair announcements August 27, 2012 - Safe in the Park - Chapter 1 Appendix – Document 4).

Further misuse of the term “abandoned” is found in the last paragraph on page 1-3 , “The LRT line would operate in a combination of environments including operations in abandoned freight rail right-of-way (ROW) acquired by HCRRA, at- grade operations in street and trunk highway ROW, and operations in new ROW that would be acquired from public and private entities” (1-3). When the HCRRA purchased the property in question it was in disuse, but it had not formally abandoned, it was not in use. The difference appears subtle, but it is not. Formal abandonment requires a lengthy legal and administrative process to seek approval from the Surface Transportation Board, which only acquiesces when it has been convinced that the tracks are not needed by any customers or the overall rail system.

1.1.1 - **Public Involvement and Agency Coordination Compliance:**

During the scoping process portions of St. Louis Park were denied a voice. Potential participants in the scoping process were told that the freight rail issue did not belong in the discussions for a preferred alternative for the SWLRT. Consequently, the choice of LPA may have been different had the freight rail question been part of the discussion from the beginning. This issue will be documented and explored further in the Chapter 12 of the SWLRT-DEIS comment.

1.2.1 - **Early Planning Efforts**

On pages 1-6 and 1-7 a list of documents used in early planning of the SWLRT is presented. However there are several important documents left off of the list. These documents are not favorable to SWLRT and therefore seem to have been ignored.

- 1996--City of St. Louis Park Resolution--96-73 (Safe in the Park - Chapter 1 Appendix – Document 1)
- 1999--St. Louis Park Task Railroad Study http://www.hennepin.us/files/HennepinUS/Housing%20Community%20Works%20and%20Transit/Regional%20Railroad%20Authority/Authority/Railroad_Study_March_1999.pdf -
- 2001 City of St. Louis Park Resolution--01-120 (Safe in the Park - Chapter 1 Appendix – Document 2)
- 2010 City of St. Louis Park Resolution--10-070 http://www.stlouispark.org/webfiles/file/freight_rail.pdf
- Short Elliot Hendrickson Inc. (SEH)--Comparison of the MN&S route and the Kenilworth route--http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf
- 2011 City of St. Louis Park Resolution 11-058 http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf
- Evaluation of Twin Cities and Western Railroad responses(EAW) http://www.mnsrailstudy.org/key_documents

To understand the opposition to the proposed reroute the documents listed above must be included in an objective evaluation of re-route portion of the SWLRT project. Furthermore; the SEH study and the comments to the EAW need to be considered before a conclusion about the freight question in the SWLRT-DEIS can be made.

1.2.2 **Environmental Review and Project Development Process**

This DEIS fails to consider the environmental impacts of the proposed reroute portion of the SWLRT project , but instead promotes a course of action that will redistribute property values from lower income neighborhoods in St. Louis Park to higher income neighborhoods in Minneapolis. The result is a net decline not only of property values, but also to overall public safety of Hennepin County. The reason for the effort to promote the re-route option over the co-location option may be based on undocumented promises touched on in the link below: http://hennepinmn.granicus.com/MediaPlayer.php?view_id=10&clip_id=1459 (F)11-HCRRA-0072

On July 20, 2010 a member of St. Louis Park City Staff requested documentation of the analysis that allowed MnDOT to designate the MN&S as the "preferred location" for TC&W freight traffic after the freight tracks were severed while rebuilding Hiawatha Ave. No documentation was ever received by the City of St. Louis Park. (Safe in the Park - Chapter 1 Appendix – Document 3)

1.2 and 1.2.1: Paragraphs discuss the Scoping Process that should comply with MEPA and NEPA rules pertaining to open-to-the-public meetings, comment sessions, and other public comments options with regard to the Alternatives Analysis. The DEIS admits during that time the city of St. Louis Park, residents and businesses were instructed in writing that the freight rail reroute was a separate issue not to be considered with the SWLRT. Therefore the entire time of "public comment" to decide the AAs should be considered null and void because citizens and municipalities were not properly informed of the environmental impacts of the LPA (1-6). During this same time the HCRRA was aware of resolutions made by more than one St. Louis Park City Council opposed the re-routing of freight trains. Had the reroute been considered a connected action during that time, it may have significantly changed support for the LPA by the city of St. Louis Park. Although the process may not have legally violated MEPA and NEPA standards, it did violate the spirit of the law.

1.3.2.1 - **Declining Mobility**

The SWLRT-DEIS continues its misrepresentation of information in its discussion of declining mobility. At the bottom of page 1-9 and the top of page 1-10 a list of current "employment centers" is given. The second item in a bullet point list is "St. Louis Park's Excelsior and Grand – 10,000 jobs" (1-9, 1-10). This information is false. According to the City of St. Louis Park web-site demographics of employment (http://www.stlouispark.org/webfiles/file/stats/employment_stats.pdf) there are a total of 10,078 jobs in St. Louis Park. Many of these jobs are not near the proposed SWLRT alignment. The list on the city web site does not assign any number of jobs to the Excelsior and Grand area.

Following the list of "employment centers" (1-10), there is a general discussion about the congestion that could occur should the SWLRT not be built. This information is based on the United States Census conducted in the year 2000. The U.S. Census web site no longer shows census data from the year 2000 (http://quickfacts.census.gov/qfd/states/27000.html) making substantive comment on the data in SWLRT-DEIS impossible for the average resident of Hennepin County. Also, based on this old, unavailable information that does not take into account the downturn in the economy in 2008, vague generalizations are made. For example: "Current express bus travel times may increase, despite the current use of shoulder lanes" (1-10).

A simple if/then statement can be used to sum up and sow doubt on the conclusions made. If the information about St. Louis Park is false then what other information in the document is false?

1.3.2.2 - **Limited Competitive, Reliable Transit Options for Choice Riders and Transit Dependent Populations including Reverse Commute Riders**

Information and generalizations based on the unavailable and outdated 2000 Census are used and therefore all of the DEIS' conclusions are brought into question. When the 2000 Census is not the source of information the exact source and date of the information is often not provided. An example from page 1-10 of the SWLRT- DEIS is a case in point. "A number of major roadways in the study area such as TH 100 and TH 169 are identified by MnDOT as experiencing congestion during peak periods." (1-10) Who at MnDOT made this assertion? When was it made? Was the upcoming rebuild of TH 100 in St. Louis Park taken into account? (http://www.stlouispark.org/construction-updates/highway-100-reconstruction.html)

Although the information in section 1.3.2.2 does not discuss the proposed re-route portion of the SWLRT, it does speak to the general misrepresentation of information in the SWLRT.

1.3.2.3 - **Need to Develop and Maintain a Balanced and Economically Competitive Multimodal Freight System**

It is easy to agree in theory with the need for a vibrant freight rail system in a growing economy. However, the unsubstantiated and false assertions in this section make it impossible to agree that rail connections between the Bass Lake and MN&S spurs and the MN&S spur and the BNSF Wayzata subdivision are necessary for the greater good.

The SWLRT-DEIS states, "The construction of a new connection between the Bass Lake Spur and the MN&S Spur, a new connection between the MN&S Spur and the BNSF Wayzata Subdivision, and the upgrading of track on the MN&S Spur are included as recommended actions in the Minnesota State Rail Plan" (1-12). No citation is provided as to where in the Minnesota State Rail Plan this assertion can be found. Presented on pages 4-11 and 4-12 of the Minnesota State Rail Plan (http://www.dot.state.mn.us/planning/railplan/finalreport/MNRailPlanFinalReportFeb2010.pdf) are text and charts describing the upgrades needed to both the BNSF and the CP prior to 2030. There is no mention of the connections mentioned in the SWLRT-DEIS (4-11& 4-12).

It needs to be noted that the new construction discussed in the SWLRT-DEIS is the same plan used in the EAW vacated by MnDOT on December 20, 2011 (SWLRT-DEIS Appendix F parts 2 and 3). This plan was rejected as unworkable by the TC&W railroad in their comments to the EAW. (http://mnsrailstudy.org/yahoo_site_admin/assets/docs/Railroad_Comments.18891450.pdf)

The next three sentences in this section are also misleading. "Providing a direct connection to the north- south MN&S line would improve accessibility to CP's Humboldt yard. Currently TC&W interchanges with the CP at their St. Paul yard. Although the Humboldt Yard is much closer, the inefficiency of the existing connection is so great that the extra distance to St. Paul is less onerous" (1-11 and 1-12). These sentences imply that most if not all of the TC&W's business is with the CP. They also mistakenly imply that the TC&W will be happy to get the connection because it will improve the company's efficiency. However, the comments made by the TC&W in the EAW show just the opposite (http://www.mnsrailstudy.org/key_documents--TC&W comments, page 1, last paragraph; also page 3, first bullet point under "Inaccuracies in the EAW..."). The STB Memorandum to Federal Transit Administration, Region V: Questions and Responses for Surface Transportation Board dated December 10, 2012 received incomplete responses about the interconnection needed for the relocation plan to work. The maps given to explain the new interconnects lacked reference to the extreme grade changes that will take place. Figure 1: Relocation Alternative, MN&S Spur does not indicate the need for a mile long ramp to accomplish the .86% grade (Figure 1: Relocation Alternative, MN&S Spur) needed to connect the Bass Lake Spur to the MN&S Spur. Furthermore, Figure 3: Relocation Alternative, Re-Established Connection does not describe the 1.2% grade needed to reestablish the connection between the MN&S Spur and the Wayzata Subdivision. (Figure 3: Relocation Alternative, Re-Established Connection - MN&S Spur to Wayzata Sub)
Missing completely from the discussion of the TC&W using the MN&S Spur to go to the Humboldt Yards in New Hope is the impact the added freight traffic will have on Northern St. Louis Park, Golden Valley, Crystal and New Hope. In St. Louis Park alone there are two at grade rail crossings on the MN&S north of the BNSF. One of the crossings is Cedar Lake Road, a major east/west roadway thought St. Louis Park yet the SWLRT does not document the traffic counts and the impacts of the crossing being closed on a regular basis.

Reading the last sentence in the first full paragraph of page 1-12 and the non sequitur of the next full paragraph continues the misleading information.

"The proposed connection in St. Louis Park allows the TC&W an alternate route at those times when the BNSF route is not available.

Moving commodities along freight rail lines rather than by semi-trailer truck on the roadway system has a significant effect upon the region's mobility. TC&W reports that an average train load equates to 40 trucks on the roadway system. Maintaining freight rail connections as a viable method for transporting goods to, from, and within the Twin Cities region contributes to the healthy economy of this region. As the roadway network continues to become more and more congested, moving commodities by freight rail will become more competitive" (1-12).

Placement of the above passage in the context of the discussion of the MN&S interconnects implies that without the interconnects the TC&W will have no choice but to use semi-trucks to move their freight. The HCRRA's praise for the economic and environmental virtues of freight railroads is laudable but at odds with HCRRA's continuing long-term policy of pushing freight rail traffic to ever more marginal scraps of infrastructure. Examples of the HCRRA's displacement of freight railroad traffic from their purpose-built and most direct and efficient routes includes the closure of the former Milwaukee Road mainline that was used by the TC&W and ran below grade through south Minneapolis, and the constriction of the BNSF mainline adjacent to Target Field in Minneapolis. In both of these cases freight rail traffic ceded right-of-way to relatively frivolous purposes, a bicycle trail for the Milwaukee Road mainline and a sports stadium and bicycle trail that constricts the BNSF Wayzata subdivision. The wording of the DEIS uses the phantom assumption that the further constriction of the BNSF line at Target Field by the SWLRT is a fait accompli and re-routing the TC&W is the only alternative to trucking, but leaving the TC&W traffic in its current route provides it a straighter, flatter, safer, shorter, less costly and more direct route to its most important destination in St. Paul. There are other alternatives to placement of the SWLRT and the bicycle trail that will not constrict freight rail traffic at Target Field.

Severing the TC&W's current route through the Kenilworth Corridor as proposed by the SWLRT-DEIS would have the opposite effect of "maintaining freight rail connections as a viable method for transporting goods" (1-12).

The multitude of unsubstantiated and false assertions in this section make it impossible to agree that rail connections between the Bass Lake and MN&S spurs and the MN&S spur and the BNSF Wayzata subdivision are necessary for the improvement of the Twin Cities rail network. Therefore the bullet pointed benefits at the end of this section are not benefits under the current engineering plan in the SWLRT-DEIS.

- *Access to the Savage barge terminal would improve.* The SWLRT-DEIS only has one connection from the Bass Lake Spur to the MN&S Spur. That connection curves north. For the access to Savage to improve there would also need to be a connection from the Bass Lake Spur to the MN&S Spur curving south.
- *Access to CP's Humboldt Yard and other locations on the east side of the metropolitan area would be improved.* The Humboldt Yard is on the north side of Minneapolis, not the east side of the metropolitan area. The problem would not be the access itself, but with the lack of efficiency and economic benefit to the TC&W of that access. The TC&W comments on this point in their EAW comments. http://www.mnsrailstudy.org/key_documents
- *An alternate route that avoids the downtown Minneapolis passenger station would be available to the TC&W.* Again, the route would be available, but would not prove to be of an economic benefit.
- *The quality of the north-south rail line would be upgraded.* Because the overall benefit of the interconnection does not exist, there is no need to upgrade the current track. (1-12)

1.4 - ***Project Goals and Objectives***

The goals and objectives of the SWLRT-DEIS project are not applied equally to all residents in the study area and this is in violation of the essential purpose of NEPA. The 6 goals stated if implemented without alteration will have a detrimental impact on the residents of St. Louis Park. This details of the detrimental impact will be discussed further in this comment to the SWLRT-DEIS.

1. Improve mobility - Due to blocked crossings and the closed crossing at 29th Street mobility in the MN&S reroute area will decrease.
2. Provide a cost-effective, efficient travel option - The design as stated in the SWLRT - DEIS is not cost effective for the railroads, and there is no discussion of reliable funding for maintenance
3. Protect the environment - The environment in the vicinity of the MN&S will deteriorate. The problems include but are not limited to an increase of noise and vibration and diesel fumes from locomotives laboring to climb steep grades will impact air quality and the threat of derailment and crossing accidents impacts the safety of residents.
4. Preserve the quality of life in the study area and the region - Quality of life will decrease in the MN&S area.
5. Support economic development - Property Values and Small business will be negatively impacted.
6. Support economically competitive freight rail system - Should the proposed reroute be built the opposite to this goal will be accomplished. The rail system in St. Louis Park will not be safe, efficient or effective (1-13 & 1-14).

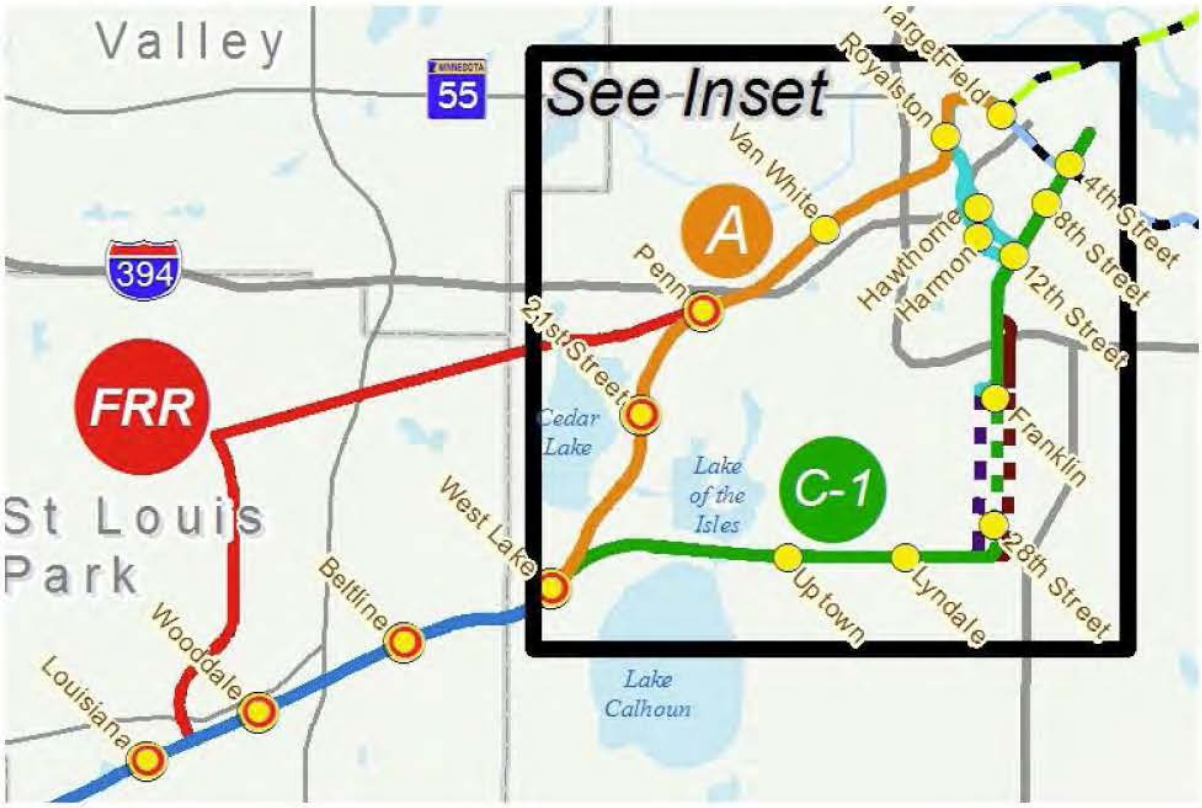
CHAPTER 2 - ALTERNATIVES CONSIDERED

2.1.2 and 2.1.2.1: Paragraphs discuss the Scoping Process that should comply with MEPA and NEPA rules pertaining to open-to-the-public meetings, comment sessions, etc. with regard to the Alternatives Analysis.. However, as the DEIS admits; during that time the City Council of the city of St. Louis Park, the city's residents and businesses were instructed in writing that the freight rail was a separate issue not to be connected with the SWLRT. (The DEIS walks through those events in detail) Therefore this entire time of "public comment" to decide the alternatives should be considered null and void because citizens and municipalities were not properly informed of the environmental impacts of the LPA. That fact should void the entire process for selecting an LPA, an early step in the development of SWLRT, especially when considering that opposition to the re-route by the city of St. Louis Park was not merely implied but the topic of repeated resolutions passed by the city. The city's position was clear. Had the reroute been considered a connected action during that time, it may have significantly changed the question of support for the LPA by the city of St. Louis Park. Furthermore, the process was not consistent with MEPA and NEPA guidelines. Furthermore this influences all of the topics in the DEIS where it is noted that alternatives other than the LPA are not consistent with planned development. This phrase is used repeatedly and refers only to the fact that plans surround the LPA.

2.3.1.3 This is a discussion of the number of trains using the current route. This discussion is not up-to-date. The TCW has added additional trains in the last six months.

2.3.3.1: Discusses the easement rights of St. Louis Park for a portion of land. Though the easement is set aside for railroad development in St. Louis Park, the DEIS is written to appear as though St. Louis Park agreed to the re-route. As stated above, resolutions have repeatedly passed by the city opposing a re-route. In addition the state statute, 383B.81, is quite clear that the easement exists for railroad operations but DOES NOT provide any conditions for St. Louis Park agreeing to railroad operations, only that the land can be used for that purpose.

2.3.3.4 Build Alternative Segments: THERE IS A MAJOR FLAW HERE THAT AFFECTS THE ENTIRE DEIS. This section outlines the segments of the route to be analyzed throughout the DEIS but does so incorrectly. The FRR segment is correctly identified. However, segment "A" includes a long portion of track that will NOT BE AFFECTED by a re-route or co-location. It incorrectly adds all of the people, lands, buildings, institutions, etc. to the Segment "A" when that Section "A" should only include the area between the planned West Lake station and the planned Penn Station; the co-location area. The area from the planned Penn Station to the Target field station is common to both the FRR segment and Segment A. and effects in that area should not be attributed to any segment.


Valley
55
See Inset
Royalston
Van White
A
Penn
394
21st Street
Hawthorne
Harmon
4th Street
8th Street
12th Street
FRR
Cedar Lake
Lake of the Isles
C-1
Franklin
West Lake
St Louis Park
Beltline
Uptown
Lyndale
28th Street
Wooddale
Louisiana
Lake Calhoun

CHAPTER 3 SOCIAL EFFECTS:

1-1.1 discusses the area studied--The study area is wholly incorrect in regard to the Freight Rail Reroute, and the areas chosen for study therefore affect all of the conclusions and render them inaccurate.

The DEIS discusses the area studied to be a ½ mile radius from the LRT track. However, that ½ mile radius is only applied to the LRT portion, not the FRR portion. The text says "the study area has been defined as the area within a one-half mile radius of the proposed Build Alternatives…. and includes the area of the Freight Rail Relocation segment." The ½ mile area of study does indeed include the FRR area, but does not include a ½ mile radius from the FRR (MN&S tracks) Therefore, much of the area that includes people, schools, institutions, and lands that will be affected by the re-route are not being tallied as an affected area.

An argument can actually be made that not only should the FRR track area of study be a ½ mile radius, but in fact because the weight, vibration, noise, etc. are greater for freight trains than light rail trains, an even broader area should be studied for the FRR.

In section 3.1.2.7, the reported MN&S land use is generalized as follows: the largest proportion of land use along this segment is at over 40% housing; park and undeveloped over 15%; schools about 7%, and industrial/retail/office about 7%. That these figures are generalizations ("over 40%" and "about 7%") indicates cursory attention to the affected areas. In addition, the land use area along the MN&S is not specified. The DEIS does not report the area being considered. To illustrate my point, it is stated that the <u>co-location</u> area of consideration is within ½ mile of the track, but there is nothing stated about the distance from the track for the reroute.

In section 3.1.2.4, the reported land use along the co-located route is far more specific, indicating careful study: 19.8% housing; 14.1% parks and open space; 10.7% water; and 11.3% industrial.

In spite of the fact that more than 70% of land use along the MN&S directly impacts human activity—but only 45.2% of land use surrounding co-location impacts human activity—the DEIS claims the reroute is the preferred option.

It is unacceptable that the decision to move main-line freight to a spur track be made without careful, serious study. Hennepin County has not seriously considered the negative impacts on community cohesion or safety impacts on residents, school children, and commuters within St. Louis Park. The DEIS fails to accurately or objectively report impacts on rerouted freight traffic.

3.1.8 Summary of Land Use: it's unclear why the 3A-1 is not compatible with <u>existing</u> land use and the 3A is when the freight trains <u>currently run</u> on 3A-1.

On the same summary under the metric: Consistent with adopted regional and local plans, the 3A-1 is listed as Incompatible. This is because the Met Council and others have simply planned for freight rail to go away. (See above argument about the choice of the LPA.

On page 3-15 in the land-use section, the DEIS claims that six separate studies "concluded the best option for freight rail operations was to relocate the TC&W freight rail operations to the MN&S line" (3-15). However, what is missing in chapter three is a list of these "six separate studies." If the DEIS is referring to studies, then there are serious flaws in each "study," including the fact that most of them are not true studies at all. The possible studies are listed and outlined in the document below:

Freight Rail Studies

Freight Rail Realignment Study, TDKA—November 2009

- Undertaken for Hennepin County after the locally preferred alternative for SWLRT was chosen. Needed to support SWLRT locally preferred alternative
- No engineering took place

Analysis of co-location of Freight and SWLRT, HDR—August 2009

- Written for Hennepin County to support what is now the locally preferred option.
- No engineering took place

Evaluation of Twin City & Western Railroad (TCWR) routing alternatives, Amphar Consulting—November 2010

- Co-location and re-route are not discussed in this report.

Analysis of Freight Rail/LRT Coexistence, RL Banks—November 29, 2010

- December 3, 2010 – Francis E. Loetterle, lead engineer for RL Banks study issued a letter admitting mistakes made in co-location analysis.
- Study is flawed.

MN&S/Kenilworth Freight Rail Study, SEH—February 2011

- Used best-fit engineering
- Co-location and re-route possible **without** taking properties
- Co-location less costly

MN&S Environmental Assessment Worksheet (EAW), MnDOT—issued May 16, 2011

- Co-location not mentioned in this document
- December 19, 2011—EAW was vacated.
- It is no longer a valid document.

On page 3-22, the HCRRA Staff Report on Freight Rail Relocation (August 2011) is cited as evidence that relocation is the preferred option. Yet, when I click on the link, the web page cannot be found.

In section 3.1.3.1, the DEIS concludes that “re-locating the freight rail activity . . . is identified most frequently by the plans as being the desired alternative for the SW Transitway” (3-26). Further down, the DEIS includes **Table 3.1-2 Summary of Local and Regional Comprehensive Plans and Studies** (3-20 – 3-26) which identifies three plans that make co-location incompatible, but re-location the desired option.
The three plans are the *Hennepin Transportation Systems Plan* (2011), the *Hennepin County Sustainable Development Strategy 2011*, and the *Minneapolis Parks & Recreation Board Comprehensive Plan* (2007).

The link provided for the *Hennepin County Transportation Systems Plan* (2011) connects to a page that states, “The webpage cannot be found.” Regardless, the fact that the plan was published in 2011—AFTER the Environmental Assessment Worksheet was vacated by MNDOT because the document couldn’t defend its position to reroute freight traffic to the MN&S suggests the reroute plan by Hennepin County is biased and invalid.

The problem of validity is the same for the *Hennepin County Sustainable Development Strategy 2011*. However, this document is problematic for a variety of reasons. The link does not lead to a document that clearly states the co-location is incompatible with LRT, nor does it comment on rerouting freight from the Kenilworth Corridor to the MN&S at all. The following excerpts included below are the only comments in the document that allude to freight traffic:

> Midtown Greenway: this six-mile linear corridor across south Minneapolis, opened in phases from 2000 – 2006, exemplifies how a multi-use trail through a low- and middle-income community can create jobs, stabilize property values, foster redevelopment, and encourage non-motorized transportation choices while preserving the opportunity for future transit. The success of this corridor has been enhanced by the Midtown Community Works Partnership, which has provided leadership through its public and business partners and resources for implementation. (9)
>
> Southwest LRT Community Works: This project exemplifies the county’s sustainable development strategy. The proposed 15-mile, 17-station Southwest LRT line, projected to open in 2017, will run from downtown Minneapolis to the region’s southwestern suburbs. The project has advanced through a decade of feasibility studies, an alternatives analysis, and a draft environmental impact statement. A locally preferred alternative for the LRT line was selected in spring 2010. The project is expected to receive federal approval to enter preliminary engineering in spring 2011.

In anticipation of the Southwest LRT project's entry into preliminary engineering, the Hennepin County Board established the Southwest LRT Community Works project to integrate corridor-wide land use, development, housing, and access planning with the LRT line's engineering and design. Southwest LRT Community Works, in collaboration with the Metropolitan Council and its Southwest LRT Project Office, will integrate LRT engineering and land use planning from the outset of the preliminary engineering process. This coordinated work, which also engages the cities and many other stakeholders along the corridor, seeks to maximize economic and community benefits of public transit investments and stimulate private investment within the corridor. [See box for additional information]. (10)

[Box with additional information] ORGANIZATIONAL MODEL

To achieve the objective of integrating LRT engineering with land use and development planning, the county and the Metropolitan Council have jointly developed an innovative organizational model with the following features:

· Multiple organizational linkages between the SW LRT Project and the SW LRT Community Works project, including shared business and community advisory committees, to advise and inform both the SW LRT and the SW LRT Community Works governing bodies.

· A project office housing both the SW LRT project engineering and Community Works staff, including two full time professional staff, an engineer and a planner, charged with actively promoting and managing the dialogue between engineering and land use, both within the project office and throughout the community.

· Community meeting rooms and public space for residents to learn about the LRT project and review plans for associated development. Residents will also be able to submit ideas for consideration, view models of LRT and station area plans, and learn of scheduled public meetings and other community engagement opportunities.

Drawing on Community Works' successful program emphasis on employment development, community connections, natural systems, tax base enhancement, and public and private investment coordination, the county is updating old and adding new programmatic elements. These changes reflect the connections between housing, transportation, employment, environment, health, and energy and their emerging integration in national public policy, finance, and philanthropy. (11)

Place matters: While not highly prescriptive, county plans recognize the importance of transportation choices, enhanced economic competitiveness, and equitable, affordable housing in fostering sustainable communities. (11)

Finally, the *Minneapolis Parks & Recreation Board Comprehensive Plan* (2007) contains one brief excerpt included below that mentions transportation corridors, and again, there is no mention of freight traffic whatsoever:

> Work with the City of Minneapolis and other entities to identify and support multi-mode transportation corridors between parks, with preference given to routes that encourage non-motorized linkages between parks. (24)

Section 3.1.3.1, "Land Use and Comprehensive Planning: Conclusions" states the following:

> "Based on the analysis of local and regional plans and studies, it has been determined that . . . relocating the freight rail activity from the Kenilworth Corridor to the previously planned and existing CP Rail corridor through St. Louis Park (Figure 2.3-2), is identified most frequently by the plans as being the desired alternative for the Southwest Transitway" (3-26).

There is no mention in the "plans and studies" listed in the Land Use Chart of the four separate resolutions signed by St. Louis Park city councils and two different mayors in the document. These resolutions are outlined below. In addition, the St. Louis Park Mission Statement and Vision St. Louis Park are not included in the chart, but the visions and mission statements of Minneapolis are included. Nowhere in the vision statements of St. Louis Park is there a desire for rerouting freight traffic from the CP to the MN&S line. These St. Louis Park plans make rerouting freight the incompatible option.

City Council Resolutions

St. Louis Park

- 1996 resolution 96-73—Opposes any re-routing of freight trains in St. Louis Park. Signed by Mayor Gail Dorfman (now Hennepin County Commissioner)
- 2001 resolution 01-120—Opposes re-routing of freight in St. Louis Park, but points out that the city is willing to negotiate should the need arise.
- 2010 resolution 10-070—Reinforced the 2001 resolution opposing a freight rail re-route.
- 2010 resolution 10-071—Reinforced the 2001 resolution asking for proof that no other viable option for freight exists
- 11-058—Opposes the re-routing of freight because the engineering study commissioned by the city of St. Louis Park proved there is a viable alternative to the proposed re-route.

Minneapolis – There are no Minneapolis City Council Resolutions opposing freight continuing in the Kenilworth Corridor.

St. Louis Park did **NOT** agree to accept the re-route in exchange for the cleanup of a superfund site. Below is a link to the statute and an explanation of pertinent passages.

MINNESOTA STATUTES 2010 383B.81 ENVIRONMENTAL RESPONSE FUND.

- SUBD 6, which states that an easement is being granted to St. Louis Park for economic development and for rail improvements to replace the 29th St. corridor. This can be interpreted to sound like "it **will** replace the 29th St. corridor and freight trains will be re-routed" and that is why the city of St. Louis Park made their intentions clear in their resolutions. The resolutions were passed in 2001, 2010 and most recently May 2011.
- Nowhere does it state that this money is conditionally granted upon the land being used for a re-route. It merely states that the priority for the site is enough **right- of - way** for railroad operations to replace the 29th St. corridor
- SUBD 8, states that the city must approve any work done on the site.
- The statute is vague as to what the rail improvements would be. If the intent of the statute were to absolutely re-route freight trains to the MN&S, it would say so in those words.
- The reality: If this statute meant that SLP accepted the re-route, the county would merely move forward and cite this statute: https://www.revisor.mn.gov/statutes/?id=383B.81&year=2010&format=pdf

Missing documents…

There are no known documents which support the assertion that the people of Minneapolis were promised the freight trains would be removed.

In 3.1.5.1 "Effects to Land Use and Socioeconomics—Segment A," the DEIS states, "in order to achieve adequate ROW for placement of the three facilities [existing freight rail, LRT rail, and a bike trail], up to 57 town homes would be removed in the area north of the West Lake Station on the west side of the corridor and 3 single-family houses would be removed north of Cedar Lark Parkway along Burnham Road" (3-34).

Moving the bike trail is not included as a consideration in this DEIS. Even though the DEIS itself cites an additional cost of $123 million to reroute freight traffic, there is no cost analysis or even consideration for rerouting a bike trail. In addition, the city of St. Louis Park funded its own study regarding the feasibility of co-location when it became clear Hennepin County was not going to study the matter seriously, and this study found co-location possible without taking the 57 town homes. The three houses mentioned in segment A have never been mentioned before, so this property take is unclear.

The DEIS states that for relocation, “land use is not anticipated to change along the primarily residential areas . . . because improvements are within the existing corridor” (3-34). Failure to mention the increased speed (from 10-25 mph), increased grade (to 0.86%), increased vibrations which have not been studied according to this DEIS, and change in freight (from construction materials to coal and ethanol) constitutes negligence. This DEIS fails to adequately study the very serious impacts on the “primarily residential areas,” not to mention the five schools within ½ mile of the MN&S.

The only mitigation mentioned in section 3.1.7 Mitigation is mitigation for construction. No other mitigation is mentioned. A DEIS of this nature should include mitigation for the community accepting freight rail regardless of its route. A full list of mitigation items has been submitted as a DEIS comment by the City of St. Louis Park

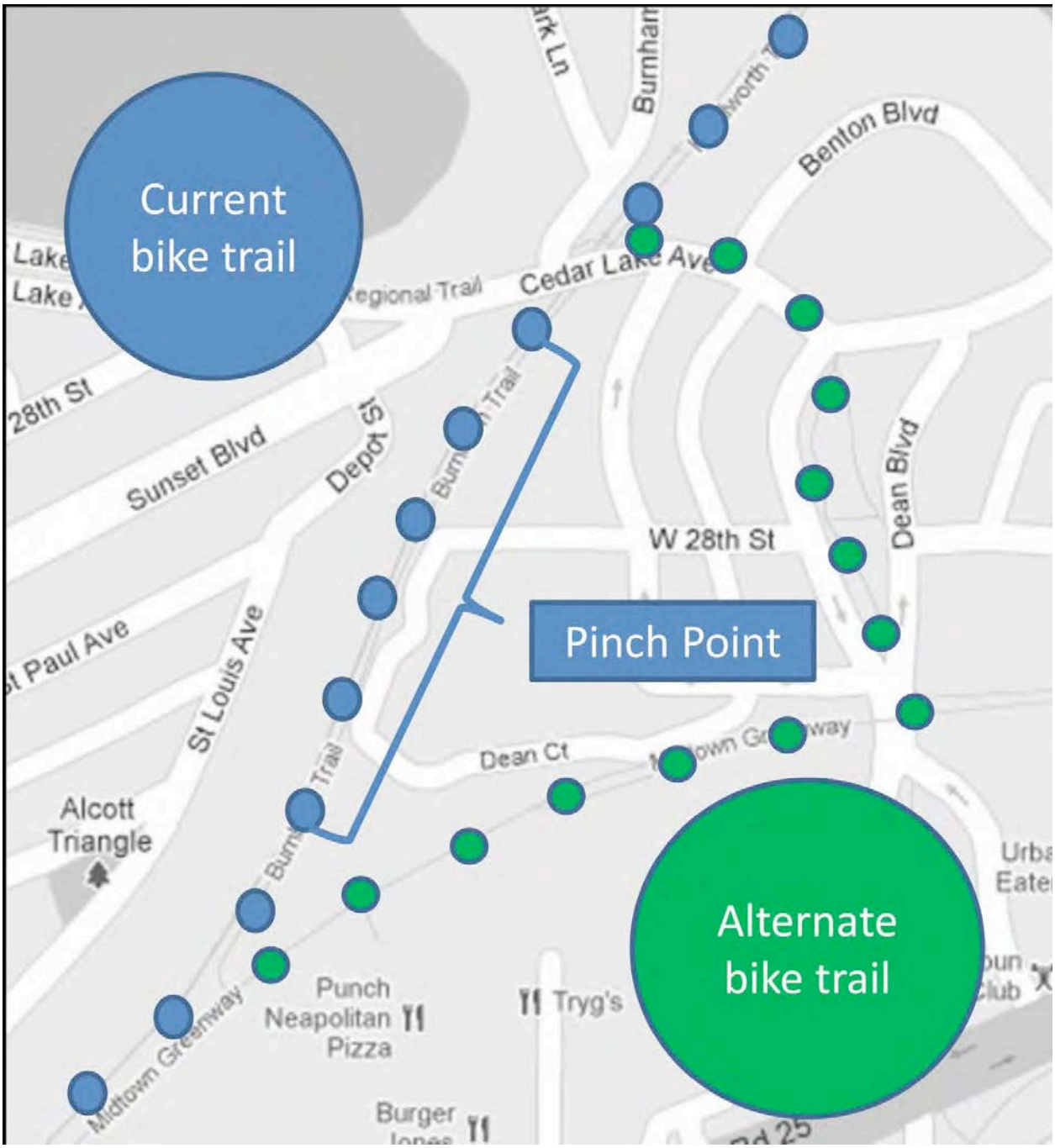
Figure 3-2.1. In this section, neighborhoods are discussed. Again, a very small radius of area is analyzed. The neighborhoods included should be all neighborhoods that where a portion of the neighborhood is within ½ mile of the FRR tracks.

In section 3.2.2.6, “Neighborhoods and Community Cohesion—Segment A,” the DEIS states, “Disruption to the community’s character [with co-location] is the introduction of additional rail facilities, i.e. LRT would be added to existing freight rail operations. With the additional tracks using a wider portion of the HCRRA corridor, the potential to alter historic properties and characteristics of the neighborhood . . . is introduced. The wider corridor with rail operations closer to residences and recreation areas decreases the opportunities for community cohesion” (3-58).

The comment that co-location has “the potential to alter historic properties and characteristics of the neighborhood” fails to recall the historic fact that as many as 14 tracks once occupied that section of the corridor. The historic characteristics of the neighborhood would not be altered at all, but rather, restored—slightly—in the form of one additional resurrected rail line. As described in Minneapolis And The Age of Railways by Don L. Hofsommer (copyright 2005 by Don L. Hofsommer, Published by the University of Minnesota Press) the Minneapolis & St. Louis (M&StL) railroad was operating its line from Minneapolis to Carver, which would have passed through what is now the Kenilworth Corridor, as early as 1871 (pages 36 and 37). At this time in history the MN&S line did not yet exist. The Kenilworth Corridor, then known as Kenwood Yard, continued to be used for mainline freight until the 1980s. The DEIS’ description of the Kenilworth Corridor as “historic,” without consideration of the factual history of the area, further demonstrates bias against co-location rather than serious study.

3.2.2.6 Discussion of neighborhood Cohesions ASSUMES that the 60 townhomes would need taking because of the assumption that the width of the Kenilworth corridor in 1/4 mile section is not wide enough for freight and light rail tracks. In fact, moving the bike trail in that same space would eliminate such a need. “With the co-location alternative, the largest disruption in community cohesion would be the acquisition of 60 housing units” (see Section 3.3).

There is absolutely no discussion of moving the bike trail instead of taking the 60 homes which artificially overstates the costs for co-location. Here is a simple diagram that shows how the bike trail can be re-directed which would cost almost nothing since the entire suggested trail is already a designated bike trail.



In the same section, namely, 3.2.2.6, “Neighborhoods and Community Cohesion—Freight Rail Re-Location Segment,” the DEIS states, “The level of freight rail service through St. Louis Park is not anticipated to change, but would be redistributed to the MN&S Line (Figure 2.3-2). Since the MN&S is an active freight rail corridor and the relocation of the TC&W traffic to the MN&S would add only a small increase in freight rail traffic, significant impacts to community cohesion along the MN&S would not be anticipated” (60).

These statements are flatly incorrect. The relocation of freight will add a significant increase in freight traffic through densely populated residential areas with narrow ROW. Rerouted freight will pass within ½ mile of five schools—within 75 feet of the St. Louis Park Senior High School. In fact, according to the DEIS itself, freight traffic will increase by 788%.

Furthermore, community cohesion will be profoundly, negatively impacted by the increased noise and vibrations due to mile-long coal- and ethanol-carrying trains climbing a grade of .86%, maneuvering through three tight curves in which engineer sightlines are limited to as few as 178 feet. Six at-grade crossings will be blocked simultaneously as the longer rerouted trains travel along the MN&S. The MN&S has never serviced unit trains of coal or ethanol, nor have the trains been longer than 45 cars. Currently, the MN&S services one, 15-20-car train per day, Monday through Friday between 9 a.m. and 6 p.m.—it travels south and returns north once per day. The rerouted traffic will send an additional 258 cars per day, and the trains will effectively travel seven days a week, twenty-four hours per day. These numbers do not include any projected increases in freight traffic.

This DEIS does not seriously consider the detrimental impact on community cohesion for St. Louis Park. It does not include the noise and vibration studies needed for determining real impact as well as necessary mitigation; it does not include traffic counts at the six, at-grade crossings that will experience prolonged blocking due to the rerouted train; it does not include traffic studies that take into account the school bus traffic traveling between the two schools bisected by the MN&S—the St. Louis Park Senior High School and Park Spanish Immersion; it does not take into account the dangerous freight passing within 100 feet and above grade through densely-populated residential areas; and it does not take into account that trains carrying hazardous materials, going around tight corners, accelerating hard to climb the steep grade, or braking hard to travel down the steep grade, will cross on bridges over Highway 7 and Minnetonka Boulevard—two very busy roads—in a compromised position. The rerouted trains would ideally cross on bridges over busy highways/roadways going straight; this is not the case for the MN&S, and there are no derailment studies included in the DEIS that discuss the impacts of this reroute.

3.2.2.6 Quotes “a small increase in freight rail traffic, significant impacts to community cohesion along the MN&S would not be anticipated.” A 788% increase is not small. The average train cars a day traveling the MN&S today is 28. The average daily train cars if the re-route would go forward would be 253 (per S.E.H. Study, April 2011 commissioned by the City of St. Louis Park). It goes on to dismiss other “community cohesion” issues such as:

A. The added freight rail bisects the high school campus, a high school with over 1300 students. This is the primary concern of most St. Louis Park residents. The tracks runs within 35 feet of the high school parking lot and 75 feet of the building itself. The school’s main athletic field is across the tracks from the high school. Children need to cross the tracks very frequently. An entire analysis of this issue along should be in the DEIS. The dangers here are enormous regardless of any planned “whistle quiet” zone. This is particularly dangerous because of the curves of the track and the speed and weight of the trains to be re-routed. The TC&W has publicly stated, and experts agree, that if a child/children are on the tracks for whatever reason, a train WILL NOT BE ABLE TO STOP to avoid a tragedy. With today’s slower, smaller, lighter traffic on that line, trains CAN stop. This is a core issue.

B. The traffic issues of blocking six at-grade auto/ped crossing including school busses entering/exiting the high school and the ripple effect of those issues because our school system “cycles” those buses from school to school.

C. The inherent danger of the longer, faster, heavier freight trains running near hundreds of homes, in some places on elevated tracks.

D. The noise, vibration issues for all residents and schools in the area.

Ironically, the DEIS states that “moving Freight rail service to the MN&S line will benefit the bus transit system by eliminating delays caused by freight rail operations. The removal of freight rail service from the Wooddale Avenue and Beltline Boulevard areas of St. Louis Park and the West Lake Street area of Minneapolis will make these areas more attractive for development/redevelopment, especially for housing” (60).

If moving freight out of an area will benefit that area, then it is certainly reasonable to assume that moving that same freight into another area will cause harm. The DEIS clearly states that “community cohesion along the MN&S would not be anticipated” (60). The document itself contradicts a fundamental issue that it purports to seriously study. This DEIS does not represent a legitimate look at co-location or re-location. It simply documents a wish by county officials to move freight traffic from its historical, logical, and safe location to a different, less-desirable location.

In section 3.2.2.7 titled “Summary of Potential Impacts by Build Alternative,” the following is stated: “LRT 3A-1 (co-location alternative) has the potential for adverse community impacts because of the conflicts that could result from having an excess of activity confined to an area not originally intended for such an intense level of transportation. In this scenario a relatively narrow ROW corridor would be forced to accommodate a freight rail line, LRT, and a multi-use trail creating an even greater barrier to community cohesion in Segment A” (3-61).

Again, the assertion that the co-location area was “not originally intended for such an intense level of transportation” is ludicrous in light of the historical facts. The Kenilworth Corridor (where co-location can occur) was originally an intensively used rail route that contained 9 separate rail lines at its narrowest point, and 15 lines at its juncture with the BNSF. In fact, the bike trail is currently using an old rail bed; this could be used by the LRT line, and safety would not be compromised as a result. Additionally, at-grade crossings would not be blocked simultaneously with co-location, nor would the freight and LRT pass residential housing above-grade, nor would the lines pass five schools within ½ mile, nor would taxpayers needlessly spend an additional $123 million.

The DEIS also states that “the addition of the Freight Rail Relocation to all of the alternatives above would have a positive impact to adjacent neighborhoods or community cohesion because removal of freight operations along Segment 4 would eliminate a barrier to community linkages” (3-61).

This sentence simply ignores the fact that relocation would profoundly impact community cohesion in St. Louis Park. If the train is rerouted, six at-grade crossings will be blocked simultaneously by unit trains—cutting off emergency vehicle routes; the St. Louis Park Senior High School’s campus will be blocked by these same unit trains for 10-15 minutes at a time; the school’s bus transportation system will be seriously impaired due to the blocked intersection between the high school and Park Spanish Immersion; residents will face the introduction of noise and vibrations never experienced before (and not studied) in St. Louis Park as a result of the intensive grade increase to get the trains from the CP line to the MN&S. There is not one single “positive impact to adjacent neighborhoods” along the MN&S, and the DEIS itself fails to mention how relocation is an “improvement.”

In Table 3.2-2. “Summary of Neighborhood, Community Services, and Community Cohesion Impacts by Build Alternative,” co-location is cited as incompatible because “Some neighborhoods are concerned about keeping freight rail and some neighborhoods about additional freight rail traffic” (3-67). What is missing from this table are the robust concerns that St. Louis Park city officials have expressed over a decade in the form of four different resolutions. In addition, St. Louis Park residents/neighborhoods have been extremely vocal. They have expressed their concerns in the following ways: Over 1500 people signed a petition requesting co-location rather than relocation; hundreds of residents attended and spoke at two separate listening sessions held by the City Council of St. Louis Park which Gail Dorfman, county commissioner, attended. Notably, Ms. Keisha Piehl of 6325 33rd St. West in St. Louis Park spoke directly to the question of community cohesion during the April 2012 listening session (http://www.stlouispark.org/webfiles/file/Comm_Dev/freight_comments.pdf).

St. Louis Park citizens, city council members, and the mayor attached extensive mitigation requests to the EAW before MNDOT vacated the document—much of that EAW is repeated in this DEIS, but the city’s and residents’ requests are not acknowledged; the Project Management Team assembled by Hennepin County included residents that represented each of the neighborhoods of St. Louis Park, and the representatives repeatedly voiced concerns about the engineering plans—those concerns were completely ignored. There are many more ways in which St. Louis Park neighborhoods voiced concerns (i.e. letters to the editor in the *Minneapolis Star Tribune* as well as other local newspapers, letters to city, county, state, and federal representatives, and so on). These concerns have been consistently ignored by Hennepin County officials and continue to be disregarded in this DEIS, but they must be included.

There is a core analytical flaw in section 3.2.2.8. It compares effects between section FRR and section A. However, it is flawed because the effects of segment “A” take into account the area north of Kenilworth corridor <u>even though that area will be affected with or without the FRR.</u> Therefore, this is not a reasonable conclusion. The conclusions should be drawn only from a comparison of the FRR vs. Segment A minus the area north of the point approximately at the planned Penn Station. In addition the parkland affected is overstated in the co-location alternative because in this portion entire parcels are counted while the actual amount of space affected by the freight train is nominal. Because the Cedar Lake Park is so large, it appears there is a potential large impact even though the actual area impacted is quite small.

Table 3.6-3. Visual Effects by Segment listed ZERO visual effects for the FRR because the actual Re-route is not examined, only the effects of the LRT. Even though it is clear that there will be major visual effects by the building of the ramp and the enormous increase of freight traffic in the relocation area.

3.3.3.3 Relocation plans assume purchasing of all of the town homes on the Kenilworth corridor as opposed to moving the bicycle trail. It also arbitrarily assumes the Co-location homes need taking but none of the Relocation home needs taking without any apparent analysis of how that is determined. i.e; # of feet from the tracks, etc.

In section 3.4.5.3 titled “Build Alternatives,” the DEIS states that “No National Register listed or eligible architectural resources have been identified within Segment 3” (3-79) which is the co-location segment. However, further down this page, the DEIS states that because of “the construction of new bridge structures within the historic district[,] the design and footprint of these structures may affect the banks of the historic channel and may affect the district’s overall feeling and setting” (3-79).

The language on this page suggests a direct contradiction. If there are not nationally registered resources in the corridor, why will the “historic channel” be affected? What determines “historic”? The language itself demonstrates bias against co-location and helps to explain the numerous, puzzling exclusions in the DEIS of the negative impacts related to relocation.

To be fair, the DEIS does acknowledge the following regarding relocating freight to the MN&S:

> 3.4.5.3 Build Alternatives: Freight Rail Relocation Segment
> Architectural properties in Segment FRR, which are listed in or eligible for the National Register include two historic districts and two individual properties. See the summary table and map for Segment FRR in the tables in the Section 106 Consultation Package in Appendix H.
>
> Potential long-term effects may occur at the following properties:
> • Brownie and Cedar Lakes, including the connecting channel, part of the Grand Rounds historic district (potential effects of new track construction on the features and settings of lakes and channel)
>
> Other potential effects to historic properties in Segment FRR relate to potential noise issues.
>
> Three areas with archaeological potential, comprising 3 acres, were identified in the Supplemental Archaeological Phase 1A along Segment FRR. Any of these that are found eligible could experience impacts from construction. (3-81)

In spite of the acknowledged impacts to historical resources along the MN&S, the DEIS favors rerouting freight rather than co-locating because the “overall feeling and setting” of the Kenilworth Corridor may be impacted (3-79). It is not made clear by the DEIS how one determines “feeling and setting” or how one even defines these attributes. What is missing from this section is commentary on how the “overall feeling and setting” will be negatively impacted along the MN&S.

In Table 3.5-2: “Potential Direct Impacts to Parkland by Segment,” the DEIS states that “no permanent impacts [are] anticipated” for the three parks along the reroute, namely Roxbury, Keystone, and Dakota (3-94). However, further down, the DEIS states that “construction footprints for the Freight Rail Relocation segment have not been developed, so acreage of temporary and long-term impacts have not been developed” (3-96). Any statement regarding impacts do not reflect reality when “construction footprints for the [FRR] segment have not been developed” (3-96). Nothing intelligent can be said about the impacts on these parks when the areas have not been studied.

Not surprisingly, the DEIS reveals that “conceptual engineering indicates that Segment A (co-location) would have a long term impact on approximately 0.88 acre. This includes a long term impact on approximately 0.81 acre in Cedar Lake Park, approximately 0.07 acre in Cedar Lake Parkway and approximately 0.01 acre in Lake of the Isles for widening the corridor to accommodate the freight rail line” (3-95). It is unclear why the corridor needs to be widened to accommodate the freight-rail line when the line already exists in the corridor, but the DEIS does not explain this mystery. In addition, as stated earlier, at its narrowest point, the corridor housed nine separate rail lines. The bike trail that now parallels the freight line is on the freight ROW; it is using an old rail bed. There is no need to widen an already wide corridor.

3.7 Safety:

A. No derailment study. merely a mention of “no recent derailments”. There was at least one derailment on the MN&S within the last 20 years. And there was one derailment just two years ago of the actual trains that are to be relocated.

B. Only two schools are listed as being “nearby” the freight rail reroute. Why is the area studied simply “nearby” and not the ½ mile rule that is used in the rest of the DEIS. If that rule was used 6 schools would be listed. Only 2 parks are listed on the FRR using the same methodology. In fact, there are more.

C. At grade safety evaluation looks at HISTORY only when it recaps that no incidents have happened. However, this is an incorrect statement because the evaluation does not examine the new train traffic that will be realized.

D. The entire examination of properties list the “dwellings within 50 feet” versus “property within 50 feet”. It is reasonable to assume that homeowners whose backyards and garages are within 50 feet of the tracks will experience a significant safety risk because that property is inhabited.

E. The schools are listed as merely “entities” versus people. Therefore, an incorrect comparison is done when considering people impacted. The high school alone contains over 1300 students. Other schools contain hundreds of students as well. These numbers should be included in safety hazards.

CHAPTER 4--ENVIRONMENTAL EFFECTS:

4.6 Air Quality, pages 66-76
MN&S Freight Rail Report from Appendix H part 1, pages 109-113

The conclusion reached in the air quality section excludes important criteria and flawed assumptions. The proposed action for the Freight Rail Relocation will result in significant increased exposure to a multiple health risk sources and decreased livability for residents.

Flawed Assumption: The DEIS states that 'freight relocation will not be a net increase in train operations but rather a relocation.' This overarching statement fails to consider that the relocation of freight is from a highly industrial land use to a high-density residential area with park and school facilities. Population density maps indicate that the majority of the area along the MN&S Sub is 1000-7500 with pockets of 7500+. In comparison, the area adjacent to the Bass Lake Spur has significantly less population density (Attachment Appendix 4).

Flawed Assumption: The relocation of freight is from the Bass Lake Spur with a straight, relatively flat track and larger ROW. The MN&S ROW is significantly smaller which means that the residents will be in closer contact to the pollution source.

Missing Information: The grade characteristics of the MN&S Spur will cause an increase in the amount of locomotive throttle needed. The necessary connection will introduce gradients that are not currently part of operational activities in St Louis Park: Wayzata Subdivision connection is 1.2% and Bass Lake Spur connection is 0.86%. TCWR commented on this aspect during the MN&S Rail Study EAW: greater grades will result in increased diesel emissions due to the need for more horsepower because of the increased grade (Supporting data A, page 4). There is no assessment for this fact.

Missing Information: The Freight Rail Re-Route design includes a siding track along the Wayzata Subdivision in St Louis Park, Minneapolis. The purpose of this siding to allow for the TCWR to wait for access to the shared trackage along Wayzata Subdivision, from approximately Penn Ave through the Twins Station congestion area. This area is shared with BNSF and Metro Transit NorthStar line. There is no discussion of how this idling of the locomotives will negatively impact air quality. Furthermore, once the the siding is in place it will be possible for not only TC&W trains to use the siding, but also BNSF trains. It is possible that the siding could be in use twenty-four hours a day, seven days a week, three-hundred-sixty-five days a year. There is no discussion about how this very possible increase in idling trains will affect air quality.

Flawed Assumption: page 4-76. It states that the queuing of vehicles when freight blocks an intersection will be similar with or without Freight Rail Reroute and would not impact air quality. This statement fails to consider the following: 1. Wooddale and Beltline Blvd are the roads in St Louis Park that would have freight removed. However, these intersections will still have significant congestion from SWLRT crossing and blockage 2. The re-routing of freight will be to an area that has more at-grade crossings (5 vs 2) and within closer proximity of each other. All five crossing on the MN&S are within 1.2 miles but the crossing on the Bass Lake Spur are approximately one mile apart. Motor vehicles will be idling significantly more while waiting at multiple at-grade crossings 3. The close proximity of the at grade crossing on the MN&S will have an accumulative impact. Trains of 20 or 50 cars will be block three intersection simultaneously. Trains of 80 or 100 cars will block all five intersections simultaneously (MN&S Report, Table 5 on page 105).

Inconsistent Statements: Page 4-72. The Freight Rail ReRoute is described as not regionally significant according to MnDot definitions. It is therefore not evaluated or accountable to air quality conformity, including CAAA requirement and Conformity Rules, 40 C.F.R 93. This application of being not significant is contradicted in other areas of the SWLRT DEIS. Including the finding in Chapter 1 of the SWLRT-DEIS that there is a “Need to Develop and Maintain a Balanced and Economically Competitive Multimodal Freight System “(1-10)

Action requested: The EPA has tightened the fine particulate regulations in December 2012. One possible source for soot pollution is diesel emissions which is a possible issue with the freight rail relocation. The locomotives that struggle with the increased grade changes will release an increased amount of diesel fumes. the air quality section should be revised and updated to reflect the tighter regulations.

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions, and inconsistent statements can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed reroute prior to making decisions.

4.7.7 Noise Impacts to the Freight Rail Reroute
Section 4.7.7, pages 99-104
MN&S Freight Rail Report from Appendix H part 1, pages 114-124

It is important to highlight the current existing traffic is during day hours, specifically from 9 a.m. to 4 p.m., on a Monday-Friday basis. With this situation, a resident with a traditional 9-5 job pattern would have very minimal exposure to the current freight. The proposed action will expand the hours of noise impact to 7AM through evening hours. In addition, the unit trains travel during the overnight hours whenever needed for business. Also, the days of service will increase to weekend usage with at least 6 days of service, if not everyday. This is significant because the current impacts to residents are limited to weekday hours with minimal impact on social, family, or neighborhood events.

It is also important to highlight that the information and hard data used to assess impacts SWLRT DEIS is a repurposing of the MN&S Freight Rail Study EAW. The EAW was in appeal process with both the City of St Louis Park and a residential group when the document was 'vacated'. It has been used in the SWLRT DEIS as the hard data, included in the Appendix H as a the MN&S Freight Rail Study. It is reasonable to state that the same issues that were being appealed with methodology, impact assessment, and environmental act violation exist in the SWLRT DEIS.

Comment on Section 4.7.7 regarding the field study, noise analysis

There is disagreement with the methodology used in the Noise Section in the MN&S report in the appendix. This report is the document used as the field work to evaluate the noise impacts for the Freight Rail Reroute in the SWLRT DEIS. The noise analysis is located in the MN&S Report on pages 114-124. The noise assessment is both missing important criteria and has flawed assumptions within the scope of the field work.

Missing Information: There is no noise assessment or field data gathered for the existing noise along the Bass Line Spur. This data is critical for the full understanding of the existing noise level of the TCWR traffic and how this level of noise compares to the noise measurement taken along the MN&S tracks.

Missing Information: The Bass Lake Spur to MN&S Spur connection will be a mile long structure that has a 0.86% grade change. The noise assessment in the MN&S Report does not discuss or evaluate how this new structure will impact noise. TC&W commented to this aspect- specifically stating that there will be increased and significant noise due to accelerating locomotives struggling to make the increased grades (Supporting data A, page 4). In addition, the City of St Louis Park Appeal to the MN&S Freight Rail Study EAW stated that the noise section did not address the noise created by additional locomotives needed to pull trains up the incline (Supporting data B, page 15).

Missing Information: The Bass Lake Spur to MN&S connection is a large and significant bridge structure with a tight curve. The noise assessment in the MN&S Report does not study or consider the impacts to the homes located on southeast corner (east of the MN&S Spur, south of the Bass Lake Spur). The residents will have an introduction of noise from a new source due to the additional locomotive throttle and curve squeal.

Missing Information: The MN&S Report and the noise assessment does not consider the grade needed to connect from the BNSF Wayzata Subdivision to the MN&S Spur. This is the area of the project that is known as the Iron Triangle. It is identified as a 1.2% grade on the MN&S Alignment Profile (Attachment Appendix 4). TC&W identified this missing information in their comment to the MN&S Freight Rail EAW (Supporting data A, page 4).

Missing Information: The MN&S Report does not assess the noise impacts to the residential homes near the Iron Triangle. The use of the Iron Triangle for the connection from the MN&S Spur and the BNSF Wayzata Subdivision includes changing the land use from an inactive to an active rail corridor. The adjacent residential homes are located at 50-100 ft distance from the proposed connection. In addition, this is an introduction of freight noise not current experienced by the community.

Missing Information: The Bass Lake Spur to MN&S Spur connection will include an eight degree curve. The field data in the MN&S Report does not evaluate the potential of this curve to be a noise source. Again, a comment by TC&W states that “the increased curvature creates additional friction, which amplifies the noise emissions including high frequency squealing and echoing” (Supporting data A, page 4). The City of St Louis Park also included the squealing wheel as a noise source in the appeal to the EAW (Supporting data B, page 15).

Missing information: The MN&S Report does not include assessment on the noise source of the stationary crossing signals and bells. It does not assess the noise generated from these stationary sources as either a solo intersection or as multiple intersection events. The characteristics of the MN&S sub includes 5 at grade crossing within close proximity. It is fact that multiple crossings will be blocked simultaneously with the re-routed freight causing all stationary sources of noise to be generated simultaneously. This characteristic will compound noise impact.

Missing Information: FTA Noise and Vibration Manual, Section 2 3.2.2: It is recommended that Lmax be provided in environmental documents to supplement and to help satisfy the full disclosure requirement of NEPA.

- The Lmax was not included in the noise section of the MN&S Report which would satisfy full disclosure.
- FTA Noise and Vibration Manual, Appendix F Computing Maximum Noise Level or Lmax for Single Train Passby (Attachment Appendix 4).
- The net change of Lmax will be significantly increased due to the increase in variables from the existing traffic to the proposed traffic. The variables expected to increase are speed (10 MPH to 25 MPH proposed), Length locos (2 locomotives current vs 4 locomotives for proposal to re-route) and Length cars (average current traffic is 20 cars vs 120 cars in the proposed rerouted traffic).This is a significant and important measurement that could be used to better understand the change in noise impacts.
- MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray, et al cites the lack of information on the Lmax as evidence that the noise study is inadequate. In detail, the appeal states that the use of Ldn is inadequate because it is an average noise level over 24 hours, not reflective of the noise impacts that a resident will actually hear (Supporting data C, page 23).

Flawed assumption: The noise section assumes that the re-routed freight will be able to travel at 25 MPH without consideration of the grade change of both the current MN&S profile and the new constructed interconnect structure.

Flawed assumption, improper analysis: The noise assessment was done with the current MN&S freight which has 2 locomotives and 10-30 cars. The freight traffic that will be rerouted will have trains that have up to 4 locomotives and 120 car length and it is projected to be a 788% increase as compared to the current freight. The noise assessment in the MN&S Report uses the current freight noise without consideration that the train profile will change, the amount of time of exposure to the noise will increase due to more trains per day with expanded hours of operation, and the duration per pass by will increase.

Missing information, improper analysis: Table 11 on the MN&S Report has a list of properties that are expected to have severe noise impacts. The distance to the impacted sites vary from 80 to 355 feet, with 273 out of the 327 total sites within 120 ft. In general, this analysis is improper because the impacts to the LRT sections are discussed as within half mile. The greatest distance discussed for freight is 355ft so the methodology for noise impact is not equally applied. Specifically, it is highly probable that expanding the impact footprint will increase the numbers for both moderate and severe impacts. Therefore, the number of sites with impacts is grossly underestimated.

Flawed assumption: There are currently no trains on the MN&S during night hours. The proposed re-routed freight will include unit trains at night. This is briefly discussed in the noise analysis but it was minimized and not properly described as a significant negative impact. The City of St Louis Park appeal asked that this noise source be considered a severe impact (Supporting data B, page 15).

Flawed assumption: The noise impact section for the FRR section describes that all severe noise impacts are a result of the train whistle at at-grade intersections. It is also a flawed assumption to state that a quiet zone will eliminate all severe noise impacts. Page 4-101. The assertion is not correct because the noise assessment within the MN&S Rail Report is missing data as described above.

Table 4.7-13 MN&S Relocation Noise Impacts: This table describes that there would be moderate noise impacts at 95 sites and severe noise impacts at 75 sites. This data is grossly underestimated. It is not possible to understand or evaluate the impacts because the field work and assessment had missing data and flawed assumptions as described above.

Figure 4.7.2- The figure does not include the noise sites for the Freight Rail Reroute. This is missing information and should be considered as an argument that the project proposer has not studied all sections equally or with due diligence.

Comments on the mitigation proposed for noise impacts

Federal guidelines:
FTA Noise and Vibration Manual 2 Section 3.2.4- Mitigation policy considerations--Before approving a construction grant--FTA must make a finding that ...ii the preservation and enhancement of the environment and the interest of the community in which a project is located were considered and iii no adverse environmental effect is likely to result from the project or no feasible and prudent alternative to the effect exist and all reasonable steps have been take to minimize the effect.

Reasonable steps have not been taken to minimize the effect. The only mitigation for noise is a Quiet Zone but after this mitigation, the level of noise impact is still moderate. Assuming that the assessment is valid and complete.

The noise mitigation section of the manual (section 3.2.5) state that moderate level noise should be further mitigated under certain circumstances/factors. There is a compelling argument for mitigation when a. large number of noise sensitive site affected b. net increase over existing noise levels c. community views. The NEPA compliance process provides the framework for hearing community concerns and then making a good faith effort to address these concerns.

The Freight Rail Relocation is within a high density residential community and within half mile of 5 schools. The MN&S tracks have a narrow Right of Way with many adjacent residential parcels at 50-100 ft. It is within reason to state and request that further mitigation should be part of this SWLRT DEIS due to FTA noise and vibration manual description (section 3.2.5).

A Quiet Zone is described as reasonable mitigation for the noise impacts for the FRR section. A quiet zone evaluation is done with the FRA, MNDot, and Rail companies. The evaluation of the possible improvements needed are based on vehicle traffic traditionally. In fact, the rules on how pedestrians and pedestrian safety should be treated is not clear. It is improper to consider and/or a design a quiet zone in FRR without proper weight on the high pedestrian use of the St Louis Park High School area. In addition, it is critical to note that the traffic analysis within the MN&S Report includes no data on pedestrian or bike traffic for the FRR section. The residents and communities requested this additional count information but were repeatedly ignored during the PMT meeting on the MN&S Study.

The real life situation is that the school is bookended by two blind curves, making it impossible for a rail conductor to view a dangerous situation in time to divert a disaster. The conductor has the right to blow their horn in situation that are considered hazardous, regardless of a quiet zone status. The characteristics of the MN&S have innate conditions with close populations of students, division of a school campus, and blind curves. It should be factored in the noise analysis that the railroad companies will continue to use whistles.

The proposal for a Quiet Zone was also included in the MN&S Freight Rail EAW. Both the Canadian Pacific Railway and TC&W Railroad commented in a negative manner during the comment phase. CP stated “designing and constructing the improvements needed for FRA requirements may be difficult- especially considering the site and geometrics of the corridor.” Supporting document d. The comment by TC&W was that they “have safety concerns due to a number of factors: 1. increase in train size, speed, and frequency: 2. proximity to schools, businesses, and residential and 3. an increased number of at grade crossings” (Supporting document A, page 5).

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed reroute prior to making decisions.

Action requested: SWLRT DEIS should include a diagram, discussion, and specifics of the quiet zone designs proposed. This is necessary prior to a decision on the freight issue in order to understand if a Quiet Zone is even feasible or realistic for the FRR.

Action requested: SWLRT DEIS should include a full list of mitigation that could be considered for both moderate and severe noise impacts for the FRR.

Action requested: SWLRT DEIS should include mitigation option if the implementation of a quiet zone is not plausible.

Action requested: The project management for the SWLRT should engage and include the EPA in the discussion of the noise impacts to the FRR. It should act in accordance to the Noise Control Act (1972) Pub.L. 92-574 (sec. 1). "The Congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare." This interaction should include all stakeholders, including the City of St Louis Park, operating rail companies, and impacted residential groups.

Action requested: The project management should include consideration of the legal precedents for noise impacts and inverse condemnation. Alevizos et al. v. Metropolitan Airport Commission no 42871 on March 15, 1974 is an example. In this case: Inverse condemnation is described as “direct and substantial invasion of property rights of such a magnitude that the owner of the property is deprived of its practical enjoyment and it would be manifestly unfair to the owner to sustain thereby a definite and measurable loss in market value which the property-owning public in general does not suffer. To justify an award of damages, these invasions of property rights must be repeated, aggravated, must not be of an occasional nature, and there must be a reasonable probability that they will be continued into the future.” Although the noise source in this lawsuit was airport based, it is reasonable to use the same guiding principles for the Freight Rail Re-Route section. The FRR, if implemented, is an introduction of a transit method which will have significant impacts to the communities.
source:http://airportnoiselaw.org/cases/alevizo1.html

4.8.4 Vibration Impacts to the MN&S Freight Rail Relocation, page 117
MN&S Freight Rail Report from Appendix H part 1, pages 124-130

It is important to highlight the current existing traffic is during day hours, specifically from 9AM to 4PM, on a Monday-Friday basis. With this situation, a resident with a traditional 9-5 job pattern would have very minimal exposure to the current freight. The proposed action will expand the hours of noise impact to 7AM through evening hours. In addition, the unit trains travel during the overnight hours whenever needed for business. Also, the days of service will increase to 7 day per week. This is significant because the current impacts to residents are limited to weekday hours with minimal impact on social, family, or neighborhood events. The neighborhoods were developed around a secondary infrequently used track. The re-routed freight will increase the tracks to a moderate use freight line.

It is also important to highlight that the information and hard data used to assess impacts SWLRT DEIS is a repurposing of the MN&S Freight Rail Study EAW. The EAW was in appeal process with both the City of St Louis Park and a residential group when the document was 'vacated'. It has been used in the SWLRT DEIS as the hard data, included in the Appendix H as a the MN&S Freight Rail Study. It is reasonable to state that the same issues that were being appealed with methodology, impact assessment, and environmental act violation exist in the SWLRT DEIS.

There is disagreement with the methodology used in the Vibration Section in the MN&S report in the appendix. This report is the document used as the field work to evaluate the vibration impacts for the Freight Rail Reroute in the SWLRT DEIS. The assessment is both missing important criteria, improper analysis, and flawed assumptions within the scope of the field work.

Missing Information: There is no vibration assessment or field data gathered for the existing vibration along the Bass Line Spur. This data is critical for the full understanding of the existing vibration level of the TCWR traffic and how this level of noise compares to the vibration measurement taken along the MN&S tracks. TC&W commented on this missing information during the comment phase for the MN&S Rail Study EAW (Supporting document A, page 4).

Missing Information: The Bass Lake Spur to MN&S Spur connection will be a mile long structure that has a 0.86% grade change. The vibration assessment in the MN&S Report does not discuss or evaluate how this new structure will impact vibration.

Missing Information: The Bass Lake Spur to MN&S connection is a large and significant bridge structure with a tight curve. The vibration assessment in the MN&S Report does not study or consider the impacts to the homes located on southeast corner (east of the MN&S Spur, south of the Bass Lake Spur). The residents will have an introduction of vibration from a new source which is missing for the scoping of the field study.

Missing Information: The MN&S Report and the vibration assessment does not consider the grade needed to connect from the BNSF Wayzata Subdivision to the MN&S Spur. This is the area of the project that is known as the Iron Triangle. It is identified as a 1.2% grade on the MN&S Alignment Profile (Attachment Appendix 4).

Improper analysis: The same impact guidelines were not used in the vibration impacts for the LRT and the Freight Relocation. For the MN&S Report, the locomotive events were considered infrequent and the rail car events was considered occasional. Appendix H, page 127. For the vibration impacts on the alternatives, the SWLRT DEIS describes the locomotive events to be infrequent also but the rail car events was described as heavy. Page 4-107, 108. The distance for heavy, frequent impacts are at distances of 150 ft. The DEIS statement and the MN&S Report statement do not support each other, conflicting data presented. In addition, the only impacts discussed was at 40 ft but the proper distance should be 150 ft. This improperly underestimates the number of sites which would have vibration impacts.

Missing information: The MN&S Report does not include any information on the proximity of the MN&S tracks to structures at adjacent parcels. The MN&S Report also does not discuss how the building of the connection in the Iron Triangle will introduce a vibration source to the adjacent residents.

Improper analysis: The field work and vibration measurements were established with two train passages: both with two locomotives, one with 6 cars and the other with 11 cars. The existing freight conditions on the MN&S are described in the MN&S Report as 2 locomotives, 10-30 cars. Based on this, the vibration measurements were taken with either below or at the low end of the current vibration conditions. It is improper to consider these measurement as representative of the existing vibration.

Improper analysis: The vibration impacts to the Freight Rail Relocation was evaluated with the current freight traffic. This is improper because the re-routed freight will be significantly different: increased locomotives from 2 to 4, increased rail cars from 20 to 120, increased of speed from 10 MPH to 25 MPH. The result of this error will be that the vibration impacts will not be accurate. The City of St Louis Park commented on this in the appeal to the MN&S Freight Rail Study EAW: vibration analysis doesn’t accurately reflect existing and proposed rail operations because the field work is based on existing short train (Supporting data B, page 16).

Improper analysis: An independent vibration study was done by a Lake Street business owner during the MN&S Freight Rail Study (Attachment Appendix 4). With consideration of the independent study, the vibration information within the SWLRT DEIS and the MN&S Report are improper due to 1. Measurements within the building were 84 VdB. According to the MN&S Rail Study, impacts for category 2 is 72 VdB for frequent events. The impacts specs for frequent events in category 3 is 75 VdB. The conclusion in the independent study is that vibration currently exceeds federal guidelines. 2. the independent measurements were taken within a 24 second time frame. The proposal to re-route traffic is expected to travel past a fixed point for 10 minutes. 3. The independent measurements were taken within a brick construction structure. In

comparison, vibrations have increased impacts within ‘soft’ construction which is typical of residential house construction. It is reasonable to state that the vibration within an adjacent residential structure would be greater at the same distance. 4. Note: The independent study was conducted on April 13, 2011. The MN&S Study measurements were taken in February 2011 during a year with record snow accumulations. It is possible that the MN&S Report Field study is improper because weather and normal winter ground conditions allowed for an erroneous low measurement. The MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray.... appealed on the independent study and the failure of the project management for the MN&S Report to address inconsistencies between the two field studies (Supporting data C, page 26).

Improper Analysis: The MN&S Report discusses the vibration impacts based on the vibration levels needed for property damage. It fails to discuss the level of vibration considered for human annoyance. The MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray.... appealed on this omission (Supporting data C, page 27).

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed reroute prior to making decisions.

Action requested: the FTA noise and vibration manual points out that vibration control measures developed for rail transit systems are not effective for freight trains. Consideration of this information should be weighted within the discussion of impacts.

Action requested: SWLRT EIS should include a full list of mitigation that could be considered for both moderate and severe vibration impacts for the FRR.

4.9 Hazardous and Contaminated Material page 119-130

Missing information: Table 4.9-1 has sites listed for the Freight Rail Reroute section. Diagram 4.9-3 to 4.9-5 has the FRR located on the diagram but the sites are not diagrammed as expected. It is not possible to evaluate the impacts of hazardous material without knowing where the sites are located. Therefore, it is not possible to comment effectively

Missing information: Page 4-127. There is a brief description of the Golden Auto Site. The comments by Canadian Pacific during the MN&S Freight Rail EAW should be considered: Due to the possibility of disturbing contaminates at the Golden Auto National Lead Site, it is unlikely that CP would be interested in taking responsibility for construction or ownership of the new connection between the Bass Lake Spur and the MN&S. The City Of St Louis Park also documented concerns on this site in their appeal to the EAW: The proposed interconnect structure will be constructed between city maintained wells near the Golden Auto site that may be impacted by construction or vibration (Supporting data B, page 20).

Missing information: Highway 7 and Wooddale Ave Vapor Intrusion site is located on the Freight Rail Reroute section. The SWLRT DEIS does not describe this MPCA, EPA site in the Hazardous Material section or analyze how the introduction of longer, heavier trains with increased vibration will impact the pollution potential.

Improper Analysis: Table 4.9-6 lists Short Term Construction Costs of Hazmat/Contaminated Sites. It is improper for the cost of the FRR to be added to alternative 3C-1, 3C-2. Both of these routes have the LRT traveling in the Midtown Corridor which makes it possible for the freight to remain in the Kenilworth Corridor.

Missing information: The SWLRT DEIS fails to analyze the long term costs. In detail, the long term expense of building the Bass Lake Spur to MN&S Spur connection on contaminated soil or the Golden Auto National Lead site.

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on. Once the new studies are complete and the scope is decided, a computer generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed re-route prior to making decisions.

CHAPTER 5 - ECONOMIC EFFECTS:

5.0 Economic Effects:

On September 2, 2011 the FTA mandated that the proposed freight rail reroute from the Bass Lake Spur to the MN&S Spur must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1)

Because of this mandate addition of the proposed re-route must be included in the "study area" in a regular and consistent basis. Unfortunately, the inclusion of the proposed reroute in the analysis of this section is inconsistent. The inconsistency of the inclusion of the proposed re-route leads to inconsistent and incorrect conclusion about the cost of the SWLRT.

5.1 - Economic Conditions

Section 5.1 does not present any analysis, it is just cheerleading. Broad generalizations are made without substantiation. Terms such as "study area, market reaction and earning and output" are used, but the study area is not defined, which market is reacting is unclear and how earnings and output are determined is not explained (5-1).

In the last paragraph of this section the names of the resources used to determine output, earning and employment are given, but no links are supplied for reference. Furthermore, not only does the source used for the analysis of multipliers is the 1997 Benchmark Input-Output Table, not have a link, but it will also be over 20 years old by the time the SWLRT is complete (5-2). It seems irresponsible to base the cost of a multi-billion dollar project on decades old data.

Without links or data tables in the Appendix of the SWLRT-DEIS it is difficult if not impossible for the average resident to make substantive comments about the data tables in this sections. Due to the November 26, 2012 revelation (Correction Letter from HDR and updated table Safe in the Park - Chapter 5 Appendix – Document 2) about "typos" the need for reference materials is all the more important.

5.1.1 - Output, Earnings and Employment Effects from Capital expenditures

Capital cost estimates/constructions values are presented in year of expenditure (YOE) dollars. However, the year actually used for analysis in this document is not shared. Also, the YOE must change since the construction of the SWLRT will cover more than one year. Without hard data and a moving YOE substantive comment is impossible creating an analysis that is opaque and not transparent.

Table 5.1-1 - Summary of Capital Cost (in YOE dollars) by Build Alternative

The re-routing of freight trains from one area to another is not unique to St. Louis Park. Train rerouting has occurred throughout the United States, Canada and Western Europe. Multiple studies about the impacts of such re-routes exist. One item that consistently appears in all the studies (Property Valuation Articles and summary - Safety in the Park - Chapter 5 Appendix – Documents 3-8) is the negative impact of the re-routed freight trains on the community that is forced to accept the trains. Although the negative impacts on small business and the loss of property value in these cases can't be called a capital cost, the negative impacts are costs nonetheless.

Because the table 5.1-1 does not include the loss of property value and loss of small business revenue in the re-route area of LRT 3A (LPA - Re-Route) the true cost of LRT 3A (LPA- Re-Route) route and how it compares to the other LPA routes is not known (5-3).

5.1.1.2 Funding Sources

As with section 5.1 the names of the reference sources are given, but no links or actual data tables are provided. This lack of information puts the average resident who does not have a paid staff to help with their SWLT-DEIS comment at a disadvantage. Despite or perhaps because of the disadvantage, questions about the conclusions arise and are as follows:.

- Final demand earnings--Are these earnings adjusted or disappear if a construction company or engineering firm from outside the Minneapolis—St.Paul-Bloomington Metropolitan Statistical Area (MSA) is chosen?
- The state participation dollars are considered "new" dollars, but the MSA is the biggest funding source for the state, so are they truly "new" dollars?
- When the number of jobs and earnings are calculated are the jobs lost to business takes or floundering small businesses in the study area figured into the final numbers?

5.2.1 Land Use

5.2.1.3 - It is unclear from the text of this section if the land use in the re-route area along the MN&S is included in the pecentages given. If not, why not?

5.2.2 and 5.2.3 Short Term Effects and Mitigation

Although the titles of Table 5.2-2 and 5.2-3 include the words “Station Area” the text of 5.2.2 and 5.2.3 state that the tables will explain the short term effects and needed mitigation for the entire alignment of each LRT route (5-4 and 5-5). The text in each table also refers to the entire alignment of the LRT routes with the exception of the LRT 3A (LPA-reroute.) Because the MN&S Spur area is part of the LRT 3A (LPA-re-route) alignment it must be included in the analysis of the short term effects and needed mitigation . If the re-route portion of the LRT 3A (LPA-reroute) is not in the included in the analysis, the conclusion drawn will be incorrect.

The re-route are of LRT 3A (LPA-re-route) appear to have been left out of the tables 5.2-2 and 5.2-3. Below are comments about short term effects and mitigation that need to be added to LRT 3A (LPA re-route) so it can be compared equally to the other LRT routes.

Table 5.5-2 - Short Term Effects

- Environmental Metric: Access Circulation - LRT 3A (LPA-reroute) **High**
    - Potential impacts to the CP along the MN&S Spur during construction of the new tracks eight feet east of the current track alignment. During regular track maintenance during the summer of 2012 there were anomalies in rail service.
    - Potential to impact access to homeowners whose properties are properties abut the MN&S.
- Environmental Metric: Traffic - LRT 3A (LPA reroute) **Medium-High**
    - During construction temporary closures of at-grade crossings. Depending on the crossing that are closed and the duration of the closings there could be impacts to small businesses and access by emergency vehicles to homes.
    - The building of the new rail bridge over TH 7 will cause service interruptions to the CP. The rail companies commented in the EAW about service delays that could be a month or more during MN&S track reconstruction. http://www.mnsrailstudy.org/key_documents

Table 5.2.3 - Mitigation

- Proposed Mitigation for Short-term Effects - LRT 3A (LPA-re-route) - Besides listed construction mitigation will the CP need a temporary bridge over TH7 or temporary trackage while a new berm is built and new trackage laid?

5.2.4 Long-Term Effects

Although the title of Table 5.2-4 includes the words “Station Area” the text of 5.2.4 states that the table will explain the long effects and needed mitigation for the entire alignment of each LRT route (5-8). The text in the table also refers to the entire alignment of the LRT routes with the exception of the LRT 3A(LPA reroute.) Because the MN&S Spur area is part of the LRT 3A (LPA reroute) alignment it must be included in the analysis of the long-term effects. If the re-route portion of the LRT 3A (LPA-reroute) is not in the included in the analysis, the conclusion drawn will be incorrect.

Table 5.2-4 - Long Term Effects - Environmental Metrics

- Environmental Metric: Consistency with Land Use Plans
    - LRT 3A (LPA - re-route)
        - Inconsistent with city vision which does not mention as desire for the freight rail to be moved from the Bass Lake Spur to the MN&S Spur http://www.stlouispark.org/vision-st-louis-park/about-vision-st-louis-park.html?zoom_highlight=vision
        - Multiple St. Louis Park City resolutions that state the re-routing of freight is unacceptable (1996--City of St. Louis Park Resolution - 96-73 (Safety in the Park Chapter 1 Appendix- Document 1) 2001 City of St. Louis Park Resolution - 01-120 (Safety in the Park Chapter 1 Appendix – Document 2) 2010 City of St. Louis Park Resolution - 10-070 http://www.stlouispark.org/webfiles/file/freight_rail.pdf 2011 City of St. Louis Park Resolution 11-058 http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf)

    - LRT 3A-1 (LPA - Co-location)
        - The Minneapolis and Hennepin County Land Use plans do not predate the St. Louis Park City resolutions rejecting the freight rail reroute.
        - SEH Plan safer and less costly than Re-route (http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf.
        - Issues with transit-oriented development are surmountable. The Cleveland trains pages 41 to 43 in the common corridors document clearly demonstrates feasibility and safety of running lrt and freight at grade, at high speeds, and without safety fences. Nearly 50 years without incident in this co-location corridor http://www.fra.dot.gov/downloads/research/ord0316.pdf

- Environmental Metric: Displacement Parking/Access Regulations
    - LRT 3A (LPA - re-route)
        - Small Businesses in the re-route area are likely to experience negative impacts caused by blocked intersections, noise and vibration due to re-routed freight trains
        - Schools in the re-route area are likely to experience access issues due to longer more frequent freight trains
    - LRT 3A-1 (LPA - Co-location) - Access issues are in the co-location area are similar to the access issues faced at Blake Rd. and on the proposed Bottineau Line. All are surmountable.

- Environmental Metric: Developmental Potential
    - LRT 3A (LPA - re-route) -
        - Potential development for Lake Street small businesses will be negatively impacted
        - Potential for homeowners to take part in St. Louis Park City Plans to upgrade their homes will be impacted by the negative implications of increased freight traffic on property values (http://www.stlouispark.org/remodeling-incentives.html)
    - LRT 3A-1 (LPA - Co-location) - No changes needed to text

5.2.5 Mitigation

The statement in section 5.2.5.3 “All Build Alternatives are anticipated to have some degree of positive effect on development potential for the local community and region. No mitigation is required” (5-22) might be true for the alignment areas near the SWLRT, but it is completely untrue about the alignment portion of LRT 3A (LPA - re-route) that includes the re-route. There are no benefits from the SWLRT that are great enough to override the negative impacts of the re-route.

CHAPTER 6 - TRANSPORTATION EFFECTS:

Section 6.2 Effects on Roadways
Table 6.2-1 lists all of the Build Alternatives which all include the FRR with the exception of 3A-1. All of these alternatives should be re-evaluated to determine whether the re-route is necessary or that extended co-location of light rail and freight rail can continue east of the MNS crossing.

6.2.2 Long-Term Effects
6.2.2.2 Physical Modifications to Existing Roadways
Missing are modifications for the Freight Rail Re-Route at grade crossings. No evaluation for circulation patterns for the proposed closing of 29th street. Evaluation of impacts of the proposed Whistle Quiet Zones at the MNS/Library Lane/Lake Street intersection and Dakota Ave are also missing. This section requires further study.

6.2.2.3 Operational Impacts at Intersections
According to the criteria for selecting crossings for evaluation, the second criteria is *"Intersections where a signal, roundabout, or stop sign controlling the roadway crossing the tracks was located within 600 feet of the LRT crossing*." MNS crossings at Walker Street, Library Lane, and Dakota all fall into this category and require LOS analysis. Additionally it should be noted that the Lake Street crossing lies within 600 feet of State Highway 7. A more thorough evaluation of the roadways in the vicinity of the MN&S tracks is clearly required. Cedar Lake Road???

Missing are factors for growth both for vehicle traffic and freight train traffic with regard to traffic impacts on the Freight Rail Re-route on the MN&S track at-grade crossings.

On page 6-38, in the queuing analysis for the freight rail re-route, the analysis of traffic delays refer to the afternoon school bus crossing at Library lane/Lake St. The delay was stated to be 3-4 minutes and involved queuing of 2 to 6 vehicles. We conducted our own traffic count over the course of three days this fall and made the following observation:

	DEIS Survey	Tue, 12/4/12	Wed, 12/5/12	Thu, 12/6/12
Blockage Time mm:ss)	03:00-04:00	02:01	02:09	02:18
Eastbound Lake St	6	9	6	10
Westbound Lake St	2	11	8	9
Southbound Library Ln	4	3	2	1

A brief interview with the police officer who routinely conducted the traffic stoppage stated that the traffic we observed was typical and that occasionally the eastbound Lake St. traffic backs up past Walker St. Extrapolating our counts using the train blockage times listed in the DEIS for the FRR we calculate queues greater than 120 cars (12.5 minutes worst case scenario) may be possible. The discrepancy noted in these observations warrant further study using accurate measurement tools and growth factors for both the vehicle and freight train traffic.

The evaluation using the school bus scenario explained on page 6-38 also completely misses the opportunity to analyze the effect a 12.5 minute delay would have on the afternoon school bus traffic between PSI and the High School. Delays of this magnitude would severely delay and complicate the scheduled bus movements for the rest of the afternoon. A thorough evaluation of both the morning and afternoon school bus traffic is needed to fully determine the impacts to the schools and community.

On page 6-39 during the analysis of Segment A of 3A-1 Alternative a 20 year growth factor of 1.12 were applied to the vehicle counts. This is not comparable to the method used on the FRR segment.

Section 6.2.4 Mitigation

The DEIS suggest the addition of street signage warning motorists of an approaching train to grade separated crossings. The plural on crossings is interesting because to our knowledge no additional grade separated crossings on the MN&S are proposed so only the current Minnetonka Blvd crossing would apply. The placement of these signs would be problematic in that they would need to be far from the affected sites in some cases and have no direct bearing on the local situation. For example, signs indicating train traffic for westbound Lake St traffic would need to be located at Hwy 100 in order to re-direct them onto Minnetonka Blvd. These signs would also have the unintended consequence of putting drivers unfamiliar with the neighborhood on local streets.

6.3 Effects on Other Transportation Facilities and Services

6.3.1 Existing Facilities

6.3.1.2 Freight Rail Operations

This section has a discussion of the current freight traffic on the four active rail lines in the study area. Due to the longevity of the decision being made regarding freight rail traffic, any evaluation that does not include predicted future growth of freight and /or commuter rail operations on both the MN&S and Kenilworth configurations seems very short sighted.

Section 6.3.1.4 Bicycle and Pedestrian Facilities

The bicycle and pedestrian trails are referred to as “interim-use trails.” Alignments of the LRT and Freight rail tracks in the Kenilworth corridor should be considered with additional co-located configurations and alternate locations of the bicycle and pedestrian trails.

6.3.2 Long-Term Effects

6.3.2.2, Freight Rail Operations

Discussion of the freight rail track bed in the Bass Lake Spur corridor for the co-location alternative fails to recognize that these improvements would be necessary regardless of which alternative is used. Unless a southern interconnect to the MN&S is built and the Skunk Hollow switching wye is removed these tracks will be necessary to facilitate the use of the wye. This would include the bridge over Hwy 100. This cost must be included in the estimates for either the 3A or the 3A-1 alternatives.

CHAPTER 7 - SECTION 4(f) EVALUATION:

7.0 Section 4(f) Evaluation

Chapter 7.0 of the SWLRT DEIS includes an analysis of the potential use of federally protected properties for the various proposed routes of the project. This response specifically relates to Section 4(f) impacts to routes 3-A (LPA) and 3A-1 (co-location); the remaining routes are not included as a part of this comment. The comment is organized by route, using 3A as a basis for comparison. This comment surfaces omissions, inconsistencies, and route alternatives not included in the DEIS, but that must be addressed in further analysis by the design team and included in the subsequent FEIS.

Before analyzing and comparing Section 4(f) impacts to routes 3A and 3A-1, it is important to make clear that the bike and pedestrian trails currently within the HCRRA ROW are not protected via Section 4(f) rules and guidelines as stated in Section 7.4 on page 7-6 of the DEIS: *" The existing trails adjacent to Segments 1, 4, A and a portion of Segments C (the Cedar Lake LRT Regional Trail, Minnesota River Bluffs LRT Regional Trail, Kenilworth Trail, and Midtown Greenway) were all constructed on HCRAA property under temporary agreements between the HCRRA and the trail permittees. As documented in each trail's interim use agreement, HCRRA permitted these trails as temporary uses with the stipulation that they may be used until HCRRA develops the corridor for a LRT system or other permitted transportation use. Therefore these trails are not subject to protection as Section 4(f) property ".*

Route 3A

Table 7.4-1 of the DEIS states that 0.00 acres of section 4(f) property is affected in Section A of the proposed route. The DEIS also states that a historic channel between Brownie Lake and Cedar Lakes may be affected by construction of this route. A calculation of the affected area is not included in Table 7.4-1, and it is not mentioned whether this affected area is considered a permanent or temporary use. This is an omission from the DEIS and an inconsistency between analysis and comparison of routes 3A and 3A-1. For contrast, the analysis of Route 3A-1 includes very detailed Section 4(f) area calculations, down to the hundredth of an acre, for bridge and other related construction at both Cedar Lake Parkway and Lake of the Isles. A revised DEIS or FEIS must address this omission and inconsistency by providing a calculation of the area impacted at the historic channel between Brownie Lake and Cedar Lake.

Section 7.4.1.4, page 7-20 of the DEIS explicitly states that land ownership along the segment from downtown Minneapolis to Cedar Lake Park is complicated and may need additional survey or a detailed title search to determine ownership of the underlying land . This is another omission. The U.S. Department of Transportation Federal Highway Administration's Office of Planning, Environment, and Realty Project Development and Environmental Review Section 4(f) Policy Paper dated July 2012, section 3.2, page 7 states:
"In making any finding of use involving Section 4(f) properties, it is necessary to have up to date right-of-way information and clearly defined property boundaries for the Section 4(f) properties. For publicly owned parks, recreation areas, and refuges, the boundary of the Section 4(f) resource is generally determined by the property ownership boundary. Up-to-date right-of-way records are needed to ensure that the ownership boundaries are accurately documented."

Without up-to-date property records and boundaries, an accurate representation of Section 4(f) property cannot be stated. The admitted complexity of property boundaries and incomplete understanding of these boundaries shall be rectified by including additional survey and title searches in a revised DEIS or the FEIS to provide a more accurate and transparent representation of Section 4(f) property impact for route 3A.

Table 7.4-1 of the DEIS states that 0.227 acres of Section 4(f) property within the Nine Mile Creek area is necessary for construction of route 3A. According to Chapter 7, Section 7.4.1.4, page 7-20 of the DEIS, the 0.227 acres of Section 4(f) area required for construction of route 3A is considered *de minimus*. This is an important figure as it sets precedent for analysis of the other routes considered for the project. These 0.227 acres of area shall be used as a basis for determining the *de minimus* quantity of Section 4(f) property for the remaining routes considered for this project. Taking this basis into consideration, the Section 4(f) property uses at Lake of the Isles of 0.01 acres, and at Cedar Lake Parkway of 0.07 acres (a total of 0.08 acres) for Route 3A-1 thus become immaterial or *de minimus*. Therefore the only material point of contention in discussing Section 4(f) property uses between routes 3A and 3A-1 is the 0.81 acres of Minneapolis Park Board property listed in the DEIS Table 7.4-1.

Route 3A-1
Taking into consideration the points made above regarding *de minimus* quantities of Section 4(f) property, the Section 4(f) uses at Cedar Lake Parkway and Lake of the Isles are negligible; the remaining 0.81 acres of Section 4(f) property use (Minneapolis Park Board property)is the only material quantity of land that should be analyzed for route 3A-1.

Section 7.4.1.5 of the DEIS discusses conceptual engineering as follows:
"*Segment A of LRT 3A-1 (co-location alternative), which would co-locate freight rail, light rail and the commuter trail within this segment would necessitate additional expansion of ROW outside of the HCRRA-owned parcels into adjacent parkland. Section 4(f) uses could occur for the Cedar Lake Park, Cedar Lake Parkway and Lake of the Isles portions of the Minneapolis Chain of Lakes Regional Park for reconstruction of existing bridges, construction of new LRT tracks and realignment of the existing freight rail tracks. The conceptual engineering complete to date for the project identifies approximately 0.81 acres of permanent use of Cedar Lake Park for the location of the reconstruction of the freight rail track."*

The DEIS then contradicts the above statement, two sentences later, with this statement:
"*Construction limits have not been determined for the co-location segment, but it is likely that additional temporary uses of parkland will occur."*

Without determining construction limits for the co-location segment, it is unclear how the figure 0.81 acres of Section 4(f) parkland use was calculated. The DEIS calls out this 0.81 acres of use, but it does not clearly delineate the boundaries of the park property that must be used. The only representation of the 0.81 acres is shown in a visual aid - Figure7.4-6, page 7-16. From this graphic, it appears that the Section 4(f) use would occur in Section A of the route between the proposed 21st Street and Penn Avenue Station. The graphic only contains visual representations of where park land use may be required. No detailed engineering drawings containing plan views of construction limits or cross-sections are provided to demonstrate the required use of park land for route 3A-1. This is a critical omission from the DEIS; a revised DEIS or FEIS must clearly show the limits of construction causing the required use of Section 4(f) property within section A of this project. If the delineation of construction limits demonstrates that use of Section 4(f) park property is in fact required for Route 3A-1, alternative permutations of this same route must be given consideration as viable alternatives as outlined in the 1966 FHA Section 4(f) documents. Just because one configuration of route 3A-1 requires park land, does not imply that other configurations of the same route would also require temporary or permanent park land use. Alternative configurations of route 3A-1 that eliminate or minimize Section 4(f) property uses must be included in a revised DEIS or FEIS. From this point forward, this comment will focus on the portion of the project between Burnham Road and the proposed Penn Avenue station, as this is the area that the DEIS states Section 4(f) park land is required for construction of the project.

Again, a thorough representation of property boundaries and ownership along section A of routes 3A and 3A-1 is not included within the DEIS. The DEIS explicitly states this in Section 7.4.1.4, page 7-20 “Land ownership along section A is complicated and may need additional survey information to accurately represent property boundaries, etc…” Appendix 7A shows Hennepin County property boundaries and a representation that the existing freight rail tracks in the Kenilworth Corridor appear to be on Cedar Lake Park property. Appendix 7 C also shows how skewed the Hennepin County property boundaries are depicted in conceptual engineering drawings. Hennepin County produced a memorandum attempting to address the issue. The document is in Appendix H,, Part 1, page 50 of the DEIS. It is titled ”Technical Memorandum” by Katie Walker, dated March 23, 2012. This memorandum outlines a problem with Hennepin County parcel data, and very generally dismisses the property boundary issues, additionally stating that the existing freight tracks through the Kenilworth Corridor are on HCRRA property and that survey quality data will be provided during preliminary and final design stages. This is not acceptable. Without accurate survey drawings the Section 4(f) analysis has absolutely no factual survey basis to stand on, rendering the analysis useless and arguably laughable. This is a major omission from the DEIS and project as a whole; accurate definition of property boundaries and ownership is a fundamental and absolutely essential piece of due diligence required for sound planning and design of any land development project.

Taking the above points into consideration and upon further investigation of property boundaries and ownership along Section A of route 3A-1, it is apparent that more property, and subsequently, various permutations of route 3A-1 are available for consideration in eliminating or minimizing Section 4(f) property use. Hennepin County property records show a ROW corridor owned by HCRRA where proposed LRT and trails would be located together. This corridor is generally 50 feet in width. If this corridor is considered as the only property available for construction of LRT, Freight Rail, Pedestrian and Bike trails, it is apparent that there is not enough width to accommodate all of these uses. A blatant and obvious omission from the analysis is the property directly adjacent to the east of this ROW corridors is owned by HCRRA and provides an additional 100 feet to 200+ feet of width to the corridor adjacent to Cedar Lake Park. The DEIS does state on page 7-21 that: “The majority of the land along Segment A through the Kenilworth Corridor by Cedar Lake Parkway belongs to the HCRRA. The additional parcels of property adjacent to the project corridor, owned by HCRRA, and that could be considered for additional configurations of route 3A-1 are recorded in Hennepin County property records and displayed on Hennepin County Property Records website. The parcels that must be included in additional configurations of route 3A-1 include PID 2902904410044, PID 3202924120046, PID 3202924120045, PID 3202924120005, and PID 320292413001. Please see Appendix 7 B for visual representations of these parcels in relation to Cedar Lake Park and the existing HCRRA ROW.

In summary the DEIS calls out 0.81 acres of Section 4(f) property as required for Co-location. This simply is not necessary. As outlined above and shown in appendix 7 of this DEIS comment document there is plenty of width from 21st St to Penn avenue to accommodate lrt, freight, and trails without using any parkland whatsoever. This is a major omission from the DEIS, and a blatant misrepresentation of facts that must be addressed in a revised DEIS or FEIS. With this said, use of Section 4(f) property becomes a non-issue for co-location, and this should be stated as such in the DEIS. Please see appendix 7 D for a discussion of legal aspects of Section 4(f) analysis as it relates to this project. A St. Louis Park resident, Mark Berg, discusses legal ramifications of Section 4(f) analysis on co-location of SWLRT and freight rail. Please consider his written letter as a companion document to this DEIS response. The analysis above combined with the legal aspects discussed by Mr. Berg demonstrate that the DEIS's 4(f) analysis is flawed and a new analysis must be undertaken by the project to rectify omissions, misrepresentation of facts, and ambiguities related to property boundaries, proposed project boundaries and overall section 4(f) property use.

CHAPTER 8 - FINANCIAL ANALYSIS:

8.0 - Financial Analysis

In September of 2011 the FTA mandated that the proposed freight rail reroute from the Bass Lake Spur to the MN&S Spur must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1) Because of this mandate addition of the proposed re-route must be included in the "study area" in a regular and consistent basis. Unfortunately, the inclusion of the proposed reroute in the analysis of this section is inconsistent. The inconsistency of the inclusion of the proposed re-route leads to inconsistent and incorrect conclusion about the cost of the SWLRT.

In section 8.1.2 methodology a list of the resources used to determine the cost of the SWLRT project are given. No links or data tables are actually shared in the SWLRT-DEIS (8.1).

Without links or data tables in the Appendix of the SWLRT-DEIS it is difficult if not impossible for the average resident to make substantive comments about the data tables and information in this section. Due to the November 26, 2012 revelation (Correction Letter from HDR and updated table Safe in the Park - Chapter 5 Appendix – Document 2) about "typos" the need for reference materials is all the more important. In fact, the errors in this section coupled with the misrepresentations, inconsistencies, omitted information and other mistakes, bring the validity of the entire SWLRT-DEIS into question.

Are there any other "typos" in the DEIS? Claiming a $100,000,000 "typo" conveniently narrows (but does not eliminate) the cost disadvantage of the HCRRA's favored LRT 3A (LPA- Re-route) relative to the less expensive LRT 3A-1(LPA - co-location). How will the additional $100,000,000 cost of the project be funded? The HCRRA's "Corrected Table 8.1-1" shows the additional $100,000,000 in "Professional Services". (8-2) Presumably the numbers in Table 8.1-1 come from spreadsheets, and where in the supporting spreadsheets did the error occur? Were the underestimated Professional Services costs in civil engineering, or public relations or project accounting? Who entered the wrong number and how is the public to know that the numbers are now correct?

Table 8.1-1 - Cost estimate for build alternatives.

The re-routing of freight trains from one area to another is not unique to St. Louis Park. Train rerouting has occurred throughout the United States, Canada and Western Europe. Multiple studies about the impacts of such re-routes exist. One item that consistently appears in all the studies (Property Valuation Articles and summary - Safety in the Park - Chapter 5 Appendix – Documents 3-8) is the negative impact of the re-routed freight trains on the community that is forced to accept the trains. Although the negative impacts on small business and the loss of property value in these cases can't be called a capital cost, the negative impacts are costs nonetheless. Furthermore, the slim cost margin between re-route and co-location seems inconsistent with the amount of building needed in each alignment.

Section 8.1.4.1: Federal Section 5309 New Starts. This section states, “The local project partners have assumed that the Southwest Transitway will be funded 50 percent with New Starts funding” (8-3). Justification for this assumption is not provided and a different assumption could just as easily be made that would fundamentally change the cost/benefits outcome of the project.

Section 8.1.4.4: Regional Railroad Authorities. As noted in this section, Regional Railroad Authorities exist “...for the specific purpose of providing for the planning, preservation, and improvement of rail service including passenger rail service and to provide for the preservation of abandoned rail right-of-way for future transportation uses” (8-4). (Contrary to this purpose, re-routing freight trains from the Kenilworth Corridor would sacrifice a relatively straight, flat, direct and efficient railroad route in order to preserve a bike path. If the purpose of “preservation of abandoned rail right-of-way for future transportation uses” had occurred as intended, the land for townhouses at the “pinch point” would never have been sold. HCRRA is not fulfilling the purpose for which it was intended.

8.2 - Operating Funding Strategy

Section 8.2.1: Operating and Maintenance Costs. This section states, “No freight rail operating and maintenance costs will be attributed to the project because HCRRA has no obligation to the freight railroads operating in the study area to reimburse either operating or maintenance costs” (8-5). The TC&W stated publicly during the PMT process that it would cost more for it to operate its trains along the re-route than on their present route through the Kenilworth Corridor and that it needed to have “economic equilibrium” before agreeing to the re-route. As made clear by Section 8.2.1, there is no provision in the DEIS to provide “economic equilibrium” to the TC&W. Leaving a critical stakeholder’s needs unaddressed undermines the credibility of the DEIS. The HCRRA joins the TC&W and the CP in explicitly renouncing responsibility for maintenance of the new MN&S interconnects that would be necessitated by the re-route, leaving this ongoing economic requirement to become an open sore for future county/railroad relations. (http://www.mnsrailstudy.org/key_documents)

Section 8.2.2: Bus O&M Costs. This section states that bus operating and maintenance (O&M) costs vary with the level of service provided, and that, “Fixed costs do not change with the level of service...” while the same paragraph also states. “Therefore, the fixed costs are 20 percent of the total (O&M costs)” (8-5). However, if O&M costs vary with activity levels and fixed costs are 20 percent of total bus O&M costs, the fixed costs are not really fixed and may be understated in the DEIS.

Section 8.2.3: Light Rail Transit Operations and Maintenance Costs. This section states, "Variable costs of LRT are assumed to be 86 percent of the total cost with the fixed cost being 14 percent of the total" (8-5). Left unexplained is what items are included in fixed cost for LRT and why fixed costs for LRT are only 14% of total O&M costs when LRT has a much higher level of fixed assets to maintain (track and overhead power lines) than the bus alternative. If fixed costs for the bus alternative are only 20% of O&M and fixed costs for LRT are 16% of O&M, the ongoing fixed costs of maintaining the larger capital base required for LRT may be understated by the DEIS.

Table 8.2-3 . "system O&M costs for building alternatives" shows the cost for LRT 3A (LPA, re-route) and LRT 3A-1 (LPA, co-location) to have exactly the same operating costs. However, LRT 3A (LPA, re-route) needs to include the costs of maintenance for the two interconnects. According to the responses from the CP in the MN&S EAW (http://www.mnsrailstudy.org/key_documents), they have declined to be responsible to maintain the interconnect (8-7). Therefore, the cost of maintenance must fall on the SWLRT and be represented in the cost table.

Section 8.2.5.1: Fare Revenues. This section states, "Ridership i anticipated to grow along with increasing population and employment" (8-7 & 8-8). Unacknowledged in the DEIS is the growth of telecommuting which might reduce demand for transit in the future, leaving the SWLRT as underused as the Northstar commuter line.

The DEIS states, "In 2011, 26 percent of the total MVST (Motor Vehicle Sales Tax) revenues were dedicated to transit needs in the Twin Cities metropolitan area" (8-8). This percentage could go up or down in the future but without explaining why, the numbers in Table 8.2-4 show the percentage increasing to 26.47% in 2012 and the following years, a higher percentage than 21.7% to 26% range observed since 2009 (8-8). Left unexplained is which part of Minnesota will give up some of its share of MVST revenues to provide more to the metropolitan area.

Section 8.2.5.2: CTIB Operating Funding. As described in this section, the Counties Transit Improvement Board has agreed to provide a percentage of the operating assistance required for the SWLRT and other light rail projects as well as the Northstar commuter line (8-8). If Northstar continues to miss its budget targets how will CTIB continue to subsidize the SWLRT?

Section 8.2.5.5: State General Funding. This section states, "State funding for transit operations has grown over recent biennia" (8-9). The numbers provided show that state funding declined 32.45% in the most recent biennium and funding declined in two of the last four biennia. The DEIS takes an optimistic case for continued state funding.

Section 8.3: Strategy for Potential Funding Shortfalls. It is asserted in this section that, “Short term shortfalls are covered by the operating reserves. In the longer term, Metro Transit relies on the MVST growth and its fare policy.” “The MVST revenues are projected to increase at a rate of 4.6 percent per year in the long run. This forecast is viewed as conservative for financial planning purposes as historical trended MVST receipts for the period of 1973 to 2008 averaged 5.7 percent” (8-9, 8-10). Assuming the above percentages indicate real growth rather than inflation-based growth, the 1973 to 2008 growth was calculated from a recession year to a year at the end of a financial bubble that may have artificially exaggerated growth. Normalized long-term growth in U.S. Gross Domestic Product is generally forecast in the 2% to 3% range, and Minnesota’s gross domestic product is likely to be in the same range, but if MVST receipts increase at a faster 4.6 percent rate over the long term, eventually 100% of Minnesota’s gross domestic product will be collected in MVST, an arithmetically unlikely outcome rendering the DEIS’ long-term operating funding projections questionable.

Another source of operating funding noted in this section is higher fares, which admittedly reduce ridership. The DEIS states, “The state’s commitment to transit in the Metro region may be regarded as an opportunity of financial risk management for operations” (8-10) which might be rephrased, “maybe they will bail us out.” Also mentioned as sources of supplemental operating funding are “non-farebox revenue sources” which raises the question of why these potential sources haven’t been previously developed.

CHAPTER 9 - INDIRECT EFFECTS AND CUMULATIVE IMPACTS:

As stated in the comment for Chapter 1 of this SWLRT-DEIS response the essential purpose of the National Environmental Protection Act (NEPA) is to ensure that environmental factors are weighted equally before an infrastructure project can be undertaken by a federal agency. The extent to which this SWLRT-DEIS does not fulfill the essential purpose of NEPA is particularly evident as the indirect and cumulative impacts of the SWLRT are discussed.

In September of 2011 the FTA mandated that the proposed freight rail reroute from the Bass Lake Spur to the MN&S Spur must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1). Because of this mandate addition of the proposed re-route must be included in the "study area" in a regular and consistent basis. Unfortunately, the inclusion of the proposed reroute in the analysis of this section is inconsistent. The inconsistency of the inclusion of the proposed re-route leads to inconsistent and incorrect conclusion about the cost of the SWLRT.

In sections **9.1- 9.2** The methods used and criteria of indirect and cumulative impacts are defined. Section 9.1.12 - states that " Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" [40 C.F.R. § 1508.7] (9-1). On the next page of the SWLRT-DEIS section 9.2.2 states "Build Alternative and other actions, including past, present, and future, were identified and added to the direct effects of each alternative (as presented in Chapters 3, 4, 5, 6, and 7 of this Draft EIS) to arrive at the total potential cumulative impact" (9-2). What is left out of these sections is the fact that the re-route area of the SWLRT-DEIS has never been evaluated in respect to 40 C.F.R. § 1508.7 and that in Chapters 3, 4, 5, 6 and 7 of this DEIS the direct impacts of the re-route portion were not evaluated in a good faith effort.

9.2.3 Study Area Definition

Section 9.2.3.1 defines the area "½ mile around the station areas" (9-3) as the area for indirect impact while section 9.2.3.2 defines the cumulative impact area as the area "about one mile on each side of the Build Alternatives' alignments" (9-3, 9-4). This is true for all of the SWLRT build options except for the MN&S re-route area. Despite being an official part of the SWLRT project, the area "about one mile on each side" of the MN&S re-route area has been left out the evaluation of cumulative impacts. An argument can actually be made that not only should the MN&S re-route track area of study be a one mile radius, but in fact because the weight, vibration, noise, and other factors are greater for freight trains than light rail trains, an even broader area should be studied for the freight re-route area.

It must be pointed out that although segment A is part of the 3A(LPA - Re-route) the area from approximately Penn Station east to Downtown Minneapolis has not been included in the discussion of the re-route. However, that same area is considered part of the co-location discussion of 3A-1(LPA-Co-Location). This is thoroughly discussed in Chapter Two comments of this document.

9.3 - Existing Conditions and Development Trends

There are so many vague assertions in this section that it is difficult if not impossible for the average resident of Hennepin County to substantively comment on this section . It is asserted that the economy of the Southwest metro is vibrant and growing, but in Chapter one of this DEIS document errors were found in regard to the number of jobs near the SWLRT alignment. It stated that the information comes from the October 2008 Market assessment (9-4). However, using the search bar on this DEIS and a close scrutiny of Appendix H, it is impossible to find the 2008 Market assessment or the data about population, household, and employment as it relates to the re-route portion of the 3A (LPA-re-route)

The existing conditions and the impacts regarding the proposed reroute area were NOT covered in Chapters 3,4,5 and 6 of the SWLRT-DEIS. The conclusions drawn in section 9.3 about the proposed reroute area are at best under represented and at worst completely wrong.

9.4 - Reasonably Foreseeable Future Actions

The proposed new intersection at TH 7 and Louisiana in St. Louis Park seems to be missing. The St. Louis Park City Council voted unanimously on December 3, 2012 to move forward with the project.

9.5 Potential for Indirect Effects and/or Cumulative Impacts

Missing from the SWLRT-DEIS is a comprehensive look at the indirect and/or cumulative impacts on the proposed re-route area. Using the Report done for the City of St. Louis Park by Short, Elliot and Hendricson (SEH) http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf
the responses to the MN&S EAW (http://www.mnsrailstudy.org/key_documents)
and the Comments to Chapters 3,4, 5 and 6 from this document, a table detailing the indirect and/cumulative impacts is presented. For purposes of evaluating the indirect and cumulative impacts of the proposed re-route area, we define the area for both indirect and cumulative impacts as the area about one mile on either side of the re-route alignment beginning just east of Minnehaha Creek on the west and the point where the new alignment joins the BNSF near Cedar Lake in the east.

Indirect impacts are the things that can only be qualified, while the cumulative impacts are as defined in section 9.1.12: " Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time" [40 C.F.R. § 1508.7] (9-1).

Table 9.5-1. Resources with potential for indirect effects or cumulative impacts

NEPA TOPIC	**POSSIBLE INDIRECT IMPACT TO RE-ROUTE AREA**	**POSSIBLE CUMULATIVE IMPACTS TO RE-ROUTE AREA**
Land use and socioeconomics	Yes, Parks will be less attractive as noise and pollution from freight trains increases.	Yes, small businesses in the area will experience difficulty due to traffic conditions
Neighborhoods, community services and community cohesion	Yes, Loss of community pride after FRR is 'forced'. Areas around the MN&S will become blighted as homes suffer from effects of extreme vibration	Yes, Loss of property value will cause higher rate of foreclosure and rental vs ownership rates. Emergency vehicles will have difficulty moving about the re-route area, STEP will be impacted by noise and vibration. Gentrification will become impossible!
Acquisitions and displacements/relocations	Yes, homes will need to be taken to create a safer ROW or if not taken neighborhood blight will occur	Yes, removal of homes or decline in value of homes that are not taken will result in a lower tax base for St. Louis

		Park. Inverse condemnation due to loss of enjoyment from negative impacts.
Visual quality and aesthetics	Yes, garbage stuck in fencing needed to create the supposed whistle free zones will be an eyesore. The interconnect structure will be site for graffiti.	Yes, The interconnect structure needed to accomplish reroute will dwarf everything in the area and change the overall look of the community. Maintenance and upkeep will be neglected because ownership of interconnect is not clear.
Safety and security	Yes, the amount of hazardous material transported will increase with increased track usage. Increase usage will decrease the enjoyment of residential backyards, as this is used as a buffer zone for derailment.	Yes, safety concerns will be a factor in the housing and resale of the residents, leading to increased housing turnover, higher rental percentages. Concerns for students will be a factor in considering school facilities for families as they establish households.
Environmental justice	Yes, Students at St. Louis Park High and Peter Hobart (both schools have significant minority populations) will be impacted.	The FRR will decrease school morale and possibly increase destructive behavior as the community reflects on the significance of forcing the FRR. A 'Rondo' effect.
Air quality	Yes, laboring locomotives will spew diesel fumes, and vehicles on the roadways will spend more time idling while waiting for trains.	Yes. negative impacts to resident health from increase pollution exposure. Property maintenance, upkeep will increase due to the settling of pollution on structures.
Noise	yes, inverse condemnation, loss of property rights as residents can no longer enjoy their backyards. Lack of direct south connection may cause the FRR area to become a defacto switching yard.	Yes, introduction of a direct route will encourage more freight traffic, use of ports and yards will change which allow for more traffic also. Noise level, exposure are not stagnant but should be expected to increase.

Vibration	Yes- increased vibration will impact structure foundations and could increase radon exposure.Lack of direct south connection may cause the FRR area to become a defacto switching yard.	Yes, introduction of a direct route will encourage more freight traffic, use of ports and yards will change which allow for more traffic also. Vibration level, exposure are not stagnant but should be expected to increase.

Economic effects	Yes, due to lower property values the tax base of St. Louis Park will no longer be raked as one of the 100 best Cities in America	Yes, a lower tax base due to lower property values will raise taxes on the homes a distance from the tracks and will also result in fewer services for residents.
Station Area Development	No, Most of the re-route area is too far from a station to benefit.	No, Community works dollars will be spent on station areas and the re-route area will be left to flounder
Transit effects	Yes, The MTC bus that crosses the MN&S at Lake Street, Library Lane and Dakota Ave. could experience schedule problems due to trains in crossing.	Yes, because of problems with scheduling the busses could be removed from service leaving people who need the bus and make transfers in uptown or downtown in Minneapolis without transportation
Effects on roadways	Yes, side streets will be difficult to traverse because of queues of cars. Since these queues will be at random times people will not be able to effectively plan their day.	Yes, emergency vehicles will have difficulty traversing the area. People will suffer because of delayed response time. Because people will attempt to avoid the roads in the re-route area as much as possible, traffic on Minnetonka Boulevard will become even more congested.

9.6 Long–Term Effect

This section states that no mitigation is "needed, proposed or anticipated" for the MN&S spur. It is difficult to believe that a 788% increase in the number of rail cars moving on the MN&S spur will need no mitigation, yet that is what is proposed in section 9.6. The section even goes on to say that "Because the indirect effects and cumulative impacts (of SWLRT) are considered desirable and beneficial no mitigation is required. " The benefits of Light rail will in no way ameliorate the negative impacts done by the re-routed freight. Light rail will not straighten tracks to save neighborhoods from derailments, it won't decrease noise and vibration or fix any other of the negative impacts caused by increased rail traffic.

As pointed out in the comments to Chapters 3, 4, 5 and 6, the negative impacts from moving freight traffic to the re-route area are extensive but these impacts are unaddressed by the SWLRT-DEIS which simply asserts in section 9.6 that no mitigation is needed for the freight rail re-route area. Should freight be re-routed from a former Chicago to Seattle mainline to tracks that were built to accommodate electric interurban trains, the mitigation needs will be extensive. Lists that include, but are not limited to all of the mitigation that will be needed in the MN&S re-route area, from just east of Minnehaha Creek to the junction of the new BNSF siding with the BNSF main line, can be found in the City of St. Louis Park comments and the SEH report. http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf (SEH document); http://www.mnsrailstudy.org/key_documents EAW Comments. These lists are in no way definitive. No matter how much mitigation is done, the MN&S Spur will always be a retro fitted interurban carrying freight trains that belong on tracks built for mainline rail traffic.

9.7 - Greenhouse Gasses

Increased diesel fumes caused by locomotives laboring up the two steep interconnects , idling for long periods of time, perhaps making multiple trips through the neighborhoods will have a cumulative impact. The area around the MN&S re-route area will become intolerable because of the added pollutants. The community further afield will suffer indirectly because of the increase of smog.

CHAPTER 10 - ENVIRONMENTAL JUSTICE:

Improper Analysis: Section 10.3.1: The same methodology was not used in both identifying census blocks for the five alternatives and the Freight Rail Relocation. It is discussed that a half mile buffer was created but there is a footnote 2 on Page 10-2. The footnote clearly states that the area of impact for the Freight Rail Relocation was geographically narrower to ensure the analysis did not miss a minority population. First, it is poor process and suspect when a project doesn't use equal parameters. Second, it is not logical to state that a narrower impact area would help include more information. A narrower area can only leave a segment with lower impact due to less geographical area. And finally, it should also be considered that Hennepin County did not take serious consideration of the Sept 2011 letter by FTA. The letter requested that the Freight Rail and impacts be a part of the SWLRT. It is suspect that the information used in the SWLRT DEIS for the FRR environmental impacts was pulled from the MN&S Report (Located in Appendix H, Part 1). The MN&S Report is essentially the same information as the Minnesota State MN&S Freight Rail EAW which didn't include a half mile impact buffer because the scope of the state project would only consider adjacent properties. The fact that the area of impact is narrower for the FRR correlates the small scope of the original project.

Improper analysis: Table 10.3.1: The percentage of minority population impacts increases with the Co-Location option. Figure 10.3-2 with the LPA 3A indicates that the there are pockets of high minority census blocks along the FRR, with the largest section in the Iron Triangle area of the FRR project. Co-Location would both eliminate these areas and is geographically smaller. Action requested to have the analysis of this percentage increase with co-location explained further.

Improper Analysis: There is a core analytical flaw in figures 10.3 when it describes the FRR and the Co-location area. It is flawed because the effects of segment "A" take into account the area north of Kenilworth corridor <u>even though that area will be affected with or without the FRR.</u> Therefore, this is an improper comparison. The figures should be divided as a.) FRR from the Interconnect structure to the BNSF siding. b.) Co-location section from West Lake to Penn Station area. c.)common area which is north and east of Penn Station to Target Field. Including the common area can only unfairly overestimate the impacts to the co-location segment.

Improper Analysis: It is important to highlight that the FRR segments have areas with high minority population. In comparison, the co-location area in Kennilworth Corridor have none. If the Re-Route section is chosen, the project will have a disproportionate negative impacts to minority in the freight decision- which is concern for the EPA and the principles of environmental justice and fair treatment. It is improper for the conclusion that the re-route is the environmentally preferred alternative for the freight. Maps of the FRR area vs co-location with minority populations (Attachment Appendix 10).

Missing from the environmental impacts for minority and low-income groups is an analysis of the demographics of the St Louis Park schools within half mile: Peter Hobart Elem., St Louis Park Senior High, and Park Spanish Immersion.

'A minority population means any readily identifiable group or groups of minority persons who live in geographic proximity, and if circumstances warrant, geographically dispersed or transient persons such as migrant workers or Native Americans who will be similarly affected by a proposed DOT program, policy or activity.' FTA C 4703.1. The population of a school can be accurately described as a geographically dispersed people that gather for the purpose of education. In addition, the school board and each school administration has the liability of protecting and policing students while on campus, similar to the responsibilities of a local government.

School	Population	Percent Minority	High Minority Population Fit[1]	Percent Free and Reduced Meals
St Louis Park School District	4472	38.9%	yes	31.2%
Senior High	1381	38.4%	yes	32.9%
Peter Hobart Elementary	549	43.5%	yes	37.2 %
Park Spanish Immersion	513	26.5%	no	14%

[1] The percentage used to determine high minority population kit was 28.3%, Section 10.3.1.1

Source: slpschools.org- Fall 2012 Enrollment Comparison and Demographic information. (http://www.rschooltoday.com/se3bin/clientgenie.cgi?butName=Fall%202012%20Enrollment%20Comparison%20and%20Demographic%20Information&cId=0&permission=3&username=)

Missing Information: The percentage of free or reduced meals is significant for the St Louis Park School District, Senior High, and Peter Hobart. it is difficult to determine from the free/reduced meals if there is an impact to low income population because the criteria is not a match. However, this is information that the project should investigate further to prevent improper high impacts.

Improper Analysis: The LPA discusses that the adverse effects on environmental justice populations. The different segments and criteria (construction, transit service and accessibility, air quality, multimodal environment) reach a conclusion that there is no disproportionate high or adverse effects anticipated. This conclusion is improper because the populations of minorities in the community of the FRR segment, school populations minorities, and possible low income students at the schools are not considered. In addition, it is stated the LRT will provide benefits to the environmental population. The Freight Rail Re-Route section of the LPA will have no benefits to the impacted populations, only negative impacts. Therefore, no offset of negative impacts by the LRT benefit. The conclusion of the Environmental Justice for the LPA is incorrect and improper.

Action requested: Halt any decision on the freight issue until further study is completed such that the missing information, flawed assumptions can be answered. This secondary study needs to have a scope which the city, residents, and railroad company can agree on.

Action requested: Change the scope of the impact areas for the FRR and co-location segments to exclude the area that is north and east of the Penn Station.

Action requested: More weight should be given to the minority areas of the Freight Rail Re-Route because the impacts will be negative with no positive LRT offset.

Action requested: Include the minority and possibly low income populations of the impacted schools in the analysis.

CHAPTER 11 - EVALUATION OF ALTERNATIVES:

On November 29, 2011 Hennepin County Commissioner Gail Dorfman stated, “How do we explain co-location being added without people thinking that co-location is on the table in a serious way, promises were made going a long way back”
http://hennepinmn.granicus.com/MediaPlayer.php?view_id=10&clip_id=1459
Consequently, the comparison done on the proposed reroute of freight from the Bass Lake Spur to the MN&S Spur then from the MN&S to the BNSF Wayzata Subdivision and the co-location of the same freight trains was not done to ensure that the essential purpose of NEPA was fulfilled.

The purpose of this comment and our evaluation of each chapter is to show that the conclusion of the SWLRT-DEIS prepared by the HCRRA concerning the co-location or re-routing for freight trains is incorrect. We submit that based on our evaluation the conclusion that the re-route is preferable co-location should be re-evaluated.

- The inconsistencies and inaccurate information in Chapter 1 bring into doubt the need for the proposed reroute. The claims that the interconnects are part of the MnDOT State Freight Rail plan are unsubstantiated.
- The lack of public process discussed in Chapter 2 should bring into question the choice of Build Alternative 3A even being considered as an option much less chosen as the LPA
- The evaluations on impacts and indirect and cumulative impacts caused by the proposed reroute discussed in Chapters 3,4,5 , 6 and 9 do not fulfill the the purpose of each chapter.
- Chapters 7 and 10 of the SWLRT-DEIS fail to address the Federally mandated questions.
- The financial chapter 8 not only is suspect because of the “typo” found on November 26, 2012 but also because it does not discuss the ongoing maintenance cost associated with the building of two large pieces of infrastructure.
- The last Chapter 12, as with Chapter 2 spells out the lack of public process and the contempt with which the residents of St. Louis Park have been treated.

The following Table 11.1-1 is based on the table of the same number in the SWLRT-DEIS (11-2 to 11- 7). The information in this chart has been compiled to evaluate and compare the proposed reroute to co-location. The SWLRT-DEIS presents comparison tables for several aspects of the SWLRT but fails to provide a comparison table showing the attributes of the re-route and co-location. Using the table comparison format featured for other purposes in the SWLRT-DEIS, a reroute/co-location comparison table is presented below. Please note that only publicly available information is included in the table below, and that publicly available information does not include specifics of the SWLRT Light Rail alignment. All public documents used in this table are referenced in this SWLRT-DEIS Comment.

Table 11.1-1 Re-route Option/Co-Location Option

Goal and Evaluation Measure	Re-Route Option	Co-location Option
Traffic impacts - queue lengths (in vehicles) at freight rail at-grade crossings	Numbers for the re-route options looked at only one day in time.	Numbers looked at projected growth of area and traffic that impact on queue lengths.
Air Quality impacts	Higher emissions due to laboring diesel freight locomotives.	No change from emissions from diesel freight locomotives
Noise	Extreme increase not only because of increase in the number of trains, but also due to freight locomotive noise caused by steep grades of interconnects. Brake and wheel noise will also increase. Quiet Zone will not stop noise from trains	Noise from Freight trains will remain the same. The only increases in freight will cause by normal market factors.
Vibration	Extreme increase due to a 788% increase in rail cars	No, number of freight trains will remain consistent with current number
Hazardous Regulated materials	High - Potential to encounter more hazardous and regulated materials sites along the MN&S Spur and the BNSF Wayzata Subdivision as well as with the construction of the interconnect at the contaminated Golden site.	
Construction Impacts	High - The building of two interconnects and moving tracks eight feet east above grade in close proximity to homes and businesses will be disruptive	Information in the DEIS is vague on the subject

Community Cohesion	Extreme impact	Impact caused by freight trains will not change, therefore, no impact
Property Acquisitions	At the very least the homes east of the MN&S between West Lake St. and Minnetonka Blvd. must be removed for safety reasons	Townhomes taken in the "pinch point" If they are removed a r-o-w wide enough for LRT, bicycles and freight will occur
Environmental Justice	St. Louis Park High School and Peter Hobart School both within ½ mile of the MN&S tracks have minority populations large enough to be considered a protected group	Impacts to minority groups caused by freight trains will not change. Freight trains already exist in the area.
Land use consistent with comprehensive plan	Yes	Yes, links in Chapter 3 are not conclusive.
Compatible with planned development	Yes	Yes, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
Economic Effects	No, beneficial effects to the local economy	Yes, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
Development Effects	No, beneficial effects to development	Yes, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
Safe, efficient, and effective movement of freight throughout the region, state and nation	No, the proposed re-route is not safe, efficient or effective	Yes
Continuous flow of freight throughout the study area	Yes	Yes

Table 11.2-1 - Evaluation of Alternatives

	Re-route Option	Co-location Option
Improved Mobility	does not support goal - re-route area will be congested	supports goal - co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT/ mobility issues are compatible
Provide a cost-effective, efficient travel option	supports goal	supports goal
Protect the environment	does not support goal - improper use of infrastructure is dangerous	supports goal, the co-location area was an active main line Freight rail yard for 110 years and then an active rail line. It has never been legally abandoned
preserve and protect the quality of the life in the study area and the region	does not support goal, improper use of infrastructure is dangerous	Supports goal, the co-location area was an active main line Freight rail yard for 110 year and then an active rail line. It has never been legally abandoned. Nothing about the freight changes
Supports economic development	Does not support goal, small businesses in the re-route area will be negatively impacted by the increased number or freight trains.	Supports goal, co-location occurs west of Louisiana Blvd. and on much of the Bottineau line, therefore LRT and development are compatible
supports economically competitive freight rail system	Does not support goal, re-route is unsafe, inefficient and ineffective	Supports goal
Overall performance	Supports goal, LRT will be able to proceed as hoped	Supports goal, LRT will be able to proceed as hoped

11.2.43 and 11.2.5 - LRT 3A (LPA- re-route) Compared to LRT 3-1 (LPA-Co-location)

In a September 2, 2011 letter the FTA informed the HCRRA that since the proposed freight rail reroute is a connected action to the SWLRT, it must be added to the SWLRT-DEIS (Letter from Marisol Simon, FTA to Susan Haigh, Met Council Safe in the Park - Chapter 5 Appendix – Document 1)

This letter also instructed the HCRRA to add co-location to the SWLRT- DEIS study. Since NEPA was written to ensure that environmental factors are weighted equally, it should be assumed that all factors concerning the re-route as part of SWLRT and co-location as part of SWLRT would be given the same scrutiny. In fact, statute 23 CFR Sec. 774.17 under NEPA, which contains a "test" for determining whether an alternative is "feasible and prudent," should have been applied equally to both the proposed reroute and co-location options. The lack of effort to do a true "feasible and prudent" analysis of the freight rail reroute as part of the SWLRT--DEIS is staggering.

Had the "test" from 23 CFR Sec. 774.17 been applied equally to the re-route portion of LRT 3A and the co-location portion of LRT 3A-1 the following would easily have been determined:
LRT 3A / LRT 3A-1 - "Test" 23 CFR Sec. 774.17

"Test" Category	**LRT 3A - Re-route**	**LRT 3A-1 - Co-location**
(i) It compromises the project to a degree that it is unreasonable to proceed with the project in light of its stated purpose and need;	Yes	No
(ii) It results in unacceptable safety or operational problems;	Yes, Safety issues include, but are not limited to, aggressive curves, excessive grade changes, multiple at grade crossing that are blocked simultaneously, narrow right of way. Operational issues include but are not limited to, locomotives pulling 100+ car trains up steep grades, more miles to St. Paul destination.	No, Safety issues caused by co-location of freight and LRT are surmountable. They are similar to problems at Blake Road on the SWLRT and most of the proposed Bottineau LRT line.

(iii) After reasonable mitigation, it still causes:	The City of St. Louis Park estimates a minimum of $50 million needed for mitigation yet the reroute still causes:	Cost of mitigation for co-location has not been estimated, but since the issues are not unusual it is logical to think mitigation will take care of issues
(A) Severe social, economic, or environmental impacts;	Yes, Mitigation will not straighten tracks, lesson grade changes or move crossings or lesson the increase in heavy rail cars.	No, Impacts to communities will all be caused by LRT because mainline freight has been established in the area for over 100 year.
(B) Severe disruption to established communities;	Yes, The increase of 788% in the number of rail cars on the MN&S is excessive. The noise from the locomotives on the interconnects will be greater than any noise currently cause by freight trains, (a whistle-free zone will not solve noise issues) and the length of vehicle queues at grade crossing will be disabling	No, The number of rail cars in the area will not change. Any disruption will be cause by the addition of LRT.
(C) Severe disproportionate impacts to minority or low income populations;	Yes, Minority populations at two of the 6 area schools will be impacted.	No
(D) Severe impacts to environmental resources protected under other Federal statutes;	Yes, there is potential for additional water resource impacts along the MN&S Spur and the BNSF Wayzata Subdivision.	No, freight rail in this area will not change and therefore, any impact on the environment will be caused by LRT
(iv) It results in additional construction, maintenance, or operational costs of an extraordinary magnitude;	Yes, the building of the interconnects and new track needed will be very disruptive in the short term. Long term costs of the project also may be excessive since the railroads have not agreed to maintain the interconnects. Also, the cost to the CP during construction and the TC&W following	Yes, during construction of SWLRT there could be some additional costs however, once implemented co-location will be no different for freight traffic than what occurs today.

	implementation or the interconnect could be extensive	
(v) It causes other unique problems or unusual factors;	Yes, there is potential to encounter more hazardous and regulated materials sites along the MN&S Spur and the BNSF Wayzata Subdivision. There is also potential to encounter hazardous materials from the construction of the interconnect over the contaminated golden site.	No. The freight will not be any different than the freight today.
(vi) It involves multiple factors in paragraphs (3)(i) through (3)(v) of this definition, that while individually minor, cumulatively cause unique problems or impacts of extraordinary magnitude.	Yes, the cumulative impacts of the problems faced by the rerouting of the TC&W freight are unprecedented in their magnitude.	No. Although there will be some minor issues cause by the introduction of the SWLRT to the area, the problems are all not unusual to LRT and are surmountable.

Applying the "test" from 23 CFR Sec. 774.17 reveals that the proposed reroute in LRT 3A (LPA) is neither "feasible or prudent." Therefore, the use of 0.81 acres of Cedar Lake Park according to the Act of 1966 codified at 49 U.S.C. 303 and 23 U.S.C. 138 will not impede the building of SWLRT.

LRT 3A-1 (Co-location) best meets the Southwest Transitway project's Purpose and Need Statement as expressed by the goals of improving mobility, providing a cost-effective and efficient travel option, preserving the environment, protecting quality of life, supporting economic development, and developing and maintaining a balanced and economically competitive multimodal freight system. **In light of the facts presented in this SWLRT-DEIS response it is recommended that LRT 3A-1 (Co-location) be chosen as the only viable option for SWLRT.**

11.4 - Next Steps

Should, despite overwhelming evidence that LRT 3A-1 (LPA - co-location) is the option that best fits the needs of the SWLRT, LRT 3A (LPA - reroute) be chosen as the route for the SWLRT the next steps by Safety in the Park will include but not be limited to the following:

- A request for an independent investigation of “typos” in the SWLRT-DEIS and the time it took to find and correct the “errors”

- A request for an independent investigation as to the reason for the STB from being notified of the publication of the the SWLRT-DEIS and the time it took to find and correct the over-site.

- An appeal of the SWLRT-FEIS

- An effort to convince the City of St. Louis Park that municipal consent should be denied based on resolution that make it clear the City of St. Louis Park opposes the rerouting of freight trains from the CP’s Bass Lake Spur to the CP’s MN&S Spur if a viable option exists. (St. Louis Park City Resolutions, 1996--City of St. Louis Park Resolution - 96-73 [Appendix 1]; 2001 City of St. Louis Park Resolution - 01-120 [Appendix 1]; 2010 City of St. Louis Park Resolution - 10-070 http://www.stlouispark.org/webfiles/file/freight_rail.pdf; 2011 City of St. Louis Park Resolution 11-058 http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf).

- An effort will be made to convince the State of Minnesota not to fund SWLRT until further study is completed such that the missing information and flawed assumptions can be addressed. This secondary study needs to have a scope agreed upon by the city of St. Louis Park, Safety in the Park, and railroad companies. Furthermore, the secondary study must be conducted by a government agency and engineering firm not previously associated with the proposed re-route. Once the new study is completed, a computer-generated simulation representing all of the new findings should be produced. This simulation will help residents and elected officials who are not engineers understand the impacts of the proposed re-route prior to making decisions.

Document list for chapter 11

- 1996 - City of St. Louis Park Resolution - 96-73 (Appendix 1)
- 1999 - St. Louis Park Task Railroad Study http://www.hennepin.us/files/HennepinUS/Housing%20Community%20Works%20and%20Transit/Regional%20Railroad%20Authority/Authority/Railroad_Study_March_1999.pdf -
- 2001 City of St. Louis Park Resolution - 01-120 (Appendix 1)
- 2010 City of St. Louis Park Resolution - 10-070 http://www.stlouispark.org/webfiles/file/freight_rail.pdf
- Short Elliot Hendrickson Inc. (SEH) - Comparison of the MN&S route and the Kenilworth route - http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf
- 2011 City of St. Louis Park Resolution 11-058 http://www.stlouispark.org/webfiles/file/community-dev/5-31-11_resolution_relating_to_freight_activity_in_slp.pdf
- Evaluation of Twin Cities and Western Railroad responses(EAW) http://www.mnsrailstudy.org/key_documents

MnDot Finding of Facts and Conclusions
c. City of St Louis Park appeal
d. MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray, et al
e. Office of Hennepin County letter, dated Dec. 19, 2011
f. MnDot Dot Resolution, dated Dec. 20, 2011

CHAPTER 12 - PUBLIC AGENCY COORDINATION AND COMMENTS:

12.1.1
The statement is made that “the public and agency involvement process has been open and inclusive to provide the opportunity for interested parties to be involved in planning. Stakeholders had an opportunity to review and comment on the analysis and results at major milestones reached during the course of the study. The program was conducted in a manner consistent with National Environmental Policy Act (NEPA) and Section 106 regulations.” This statement is completely false considering the public concerned about the freight rail re-route issue.

NEPA 1500.2(d) states that the leading agency must “encourage and facilitate public involvement in decisions which affect the quality of the human environment.” This regulation was clearly ignored in regards to the potential freight rail re-route issue. Hennepin County did not “encourage and facilitate” public involvement concerning this issue. Hennepin County did not allow the “opportunity to review and comment on the analysis and results at major milestones reached” In fact, Hennepin County refused attempts for public comments and concerns regarding the freight rail issue at all of the outreach meetings prior to September 2, 2011. This included major milestone including the selection of the LPA. Because of the deliberate exclusion of the freight issue, the LPA selection process must be reopened and reexamined allowing public input to become part of the process.

12.1.1.2
CAC Process - After the proposed re-route was added to the SWLRT project Safety in the Park was added to the Community Advisory Committee of the SWLRT. The CAC group had a reputation of being well run, open minded and inclusive. Our wish was to explain that our opposition to the re-route is not (as has been heralded by the county) to be anti-LRT. We wanted it known that our concern is simply that our county and state governments are misusing a piece of infrastructure and in doing so creating an unlivable, unsafe environment for a significant segment of the population.

Instead of listening to our concerns, the leadership of the CAC committee took the highly unusual step of changing the CAC Charter that had just been accepted by the committee. The original charter allowed for alternate members to take part in meetings as long as the leadership was notified in advance of the alternates attendance. (Appendix 12.1.1.2) The new charter rescinded the rights of alternates. Making it impossible for residents to be adequately represented.

The Community Engagement Steering committee is a local coalition of community groups formed around the Corridors of Opportunity within the Minneapolis- St Paul metro area. This body has met with the staff of the SWLRT, in regards to the principles and strategies of the CAC meeting.

The following is a list of recommendations that were adopted in Spring 2012.

Based on lessons learned from community engagement on the Central Corridor, SWLRT, Gateway Corridor, and Bottineau, the Community Engagement Steering Committee makes these recommendations on the formation, structure, and process for Community Advisory Committees (CAC):

a) CACs will be formed early in the transitway corridor planning process at the start of the scoping phase.
b) The purpose of CACs will include being a resource and check point for community engagement throughout the transitway corridor and the adjacent communities. They will review and approve a corridor project community engagement plan.
c) CACs will identify the community issues and assign problem solving teams that include community members and project staff.
d) Community Advisory Committees will be a community driven body facilitated and provided staff support by corridor project staff.
e) CAC membership will be selected by communities they represent along transitway corridors.
f) CAC and Business Advisory Committees will meet together on a quarterly basis.
g) The Community Engagement Steering committee will support transitway corridor project staff with connections to underrepresented groups along the transitway corridors such as contacts to:

- Faith communities
- Cultural communities
- Place based groups
- Communities of color
- Small and Ethnic businesses
- Community Engagement Steering Committee members
- Disability community
- New immigrant communities
- Low-income communities
- Students at high schools, community colleges

h) The orientation for the CAC will include environmental justice, equitable development, and cultural awareness training in their orientation that includes a combined map identifying where the underrepresented communities (low income, communities of color, new immigrants, and disabled) live.
i) CACs will have the ability to set their own agenda, pass motions, and make recommendations to the corridor policy advisory committee and the corridor management committee through their voting representative.

j) CACs will elect a chairperson from their membership who represents a grassroots community along the transitway corridor

k) A community representative will be elected to serve by the CAC on the transitway corridor policy advisory committee as a voting member.

l) Construction Communication Committees should be set up at least one month in advance of construction, with representatives appointed by grassroots community groups.

The SWLRT CAC has not being conducted in good faith on some of the recommendations that were adopted. It should be considered that the recommendations were agreed upon but not acted upon or implemented in process.

1. The SWLRT CAC was expanded in April 2012. The BAC was formed also in August 2012. To date, the CAC and the BAC has not met, nor is it in the agenda for the near future. part f.

2. The CAC does not have representations for the minority group along the Freight Rail Re-route or students from the St Louis Park High School. There has been no active recruitment for these group by the SWLRT Staff. part g.

3. The CAC members have not been able to set the agenda, pass motions, or make recommendations to the policy advisory committee. If there is a voting representative, the members of the CAC are not aware of this ability, who is the voting member, or how this vote is conducted. part i.

4. There has been no election to establish a chairperson. part j.

5. There has been no election to establish a representative the Management Committee. part k

6. Community issues were identified in a “dot-mocracy” survey, however details of the survey were denied the CAC committee and no subcommittees have been established. part c

7. The CAC has not been included as a resource and check point for community engagement throughout the transitway corridor and the adjacent communities. They have not reviewed or approved a corridor project community engagement plan. part b

12.1.1.4

Table 12.1-1 lists meetings of Neighborhood, community and business groups where Southwest Transitway information was presented. The discussion of the freight issue was not allowed at any of these meetings.

12.1.1.5
Since the DEIS was launched, three additions of the Southwest Newsline were published and distributed. The freight issue was deliberately excluded from all three publications.

12.1.1.6
Table 12.1-2 lists community events where staff attended southwest materials were distributed. The opportunity to learn about the freight issue or discuss the freight issue was deliberately excluded from every one of these community events.

12.1.1.8
Information about the freight issue was deliberately excluded from the southwesttransitway.org website prior to Sept, 2011.

12.1.2
None of the articles on SW LRT listed in Table 12.1-4 included the freight issue. Table 12.1-5 lists media outlets contacted to run stories about the SW LRT project. None of the media outlets were contacted by project staff and asked to run a story about the freight issue.

12.1.3
Twenty-five public meetings and open houses were held at locations within the Southwest Transitway project corridor to provide information to affected and interested communities and parties. The primary purpose of these meetings was to inform of the public about the study's process and to give all interested parties an opportunity to provide input, comments, and suggestions regarding the study process and results. The opportunity to provide input, comments and suggestions regarding the freight issue was deliberately excluded from each and every one of these 25 meetings.

12.1.3.1
The scoping process is designed to inform the public, interest groups, affected tribes, and government agencies of the Draft EIS and to present the following items for comment:

1. Purpose and need for the project;
2. Alternatives to be studied; and
3. Potential social, economic, environmental, and transportation impacts to be evaluated.

The freight issue is the most controversial issue of the SW LRT project. The freight issue has the greatest potential social, economic and environments negative impacts yet it was not included during the vast majority of the SW LRT scoping process. The freight issue was deliberately excluded after multiple requests to include it in the scoping process. A specific and formal request from the City of St. Louis Park was made on October 14, 2008 to include the freight issue under the scope of the SWLRT DEIS. (Appendix 12.1.3.1a) The St. Louis Park Public Board of Education made a similar request on November 3, 2008. (See Appendix 12.1.1.3.1b) The NEPA Implementation Office of Enforcement and Compliance Assurance wrote a letter dated November 6, 2008 that stated the "impacts and contributions to the existing transportation network including freight/industrial, automotive, pedestrian, and bicycle modes should be fully presented in the DEIS".(Appendix 12.1.3.1c) Despite all of these requests, the freight issue was denied inclusion in the DEIS scope prior to Sept 2, 2011. The reason for this exclusion is unknown and not published in the DEIS.

12.1.3.2
The discussion of the freight issue was deliberately excluded from all three of the open houses held on May 18, 2010, May 19, 2010 and May 20, 2010.

12.1.5
The only opportunity the public was given by Hennepin County to discuss the freight rail re-route was at the PMT meetings discussed in section 12.1.5. However, any discussion of possible alternatives to the re-route (co-location) or the freight re-route's connection with SWLRT was strictly forbidden at these PMT meetings. In addition, the vast majority of PMT members and St. Louis Park community were not satisfied with the PMT process. The last PMT meeting included a public open house where over 100 St. Louis Park citizens attended and expressed their outrage regarding the PMT process. The comments made at the open house need to be part of the DEIS since the freight issue was excluded from all other opportunities for public input. The open house can be viewed at http://vimeo.com/17945966

In addition, Sue Sanger and Paul Omodt (St. Louis Park Council Members) wrote a letter to Hennipen County Commissioner Gail Dorfman and described the PMT as an “illegitimate and indefensible process” The complete letter can be found in the appendix. (Appendix 12.1.5a) Another letter was written by Ron Latz (State Senator), Steve Simon (State Representative) and Ryan Winker (State Representative) to Hennepin County Commissioner Mike Opat. (Appendix 12.1.5b)The letter was written because of the multitude of complaints made about the PMT process from their constituents. The letter asked that the residents of St. Louis Park receive fair treatment as Hennepin County makes a decision about a the possible re-route. They asked that fair studies and a transparent process. Despite these letters, Hennepin County did not change the way they treated St. Louis Park residents.

The following are comments made by PMT members to provide an overview of the severe shortcomings of the PMT process.

Kathryn Kottke (Bronx Park): “The ‘process’ was very frustrating because the questions I asked were not answered. In addition, during the open session residents were allowed to ask questions, but they were openly ignored; at some points, Jeanne Witzig, who facilitated the meetings, would simply respond, ‘Next?’ after residents had asked a question. Any discussions about SW LRT or possible alternatives to the reroute were not not allowed.

“Perhaps most frustrating was that we were asked to list our mitigation requests, but when the engineers had completed their work, they not only ignored every single mitigation request we had made, but they added mitigation we openly rejected such as a quiet zone by the high school and the closure of the 29th street at-grade crossing. Instead of making the reroute safer, Kimley-Horn planned for welded rails that would enable trains to run faster through a very narrow corridor.”

Karen Hroma (Birchwood Neighborhood): “The PMT meetings were held only so Hennepin County can check a box and claim that they gathered “public input”. The experience was frustrating and insulting. Several questions of mine went unanswered. None of the Birchwood residents’ mitigation requests were given consideration. In fact, quite the opposite happened. Although the Birchwood residents very specifically asked that the 29th Street intersection remain open, the PMT concluded that the 29th Street be closed and that is was considered “mitigation”. When the PMT wanted to discuss possible alternatives to the re-route we were told that this was not the appropriate time or venue to discuss.”

Jake Spano (Brooklawns Neighborhood Representative) and current St. Louis Park Council Member): “I do not support increasing freight rail traffic through St. Louis Park or the rerouting of freight rail traffic North through the city until it has been proven that there is no other viable route. To do this, we need objective, honest assessments and an acceptance of mitigation requests by the people of the St. Louis Park. What was presented during the Project Management Team (PMT) process was lacking in all three of these areas.”

Claudia Johnston (City of St. Louis Park Planning Commission): “PMT meetings were conducted to get input from cities, residents and businesses impacted by the SWLR and rerouting freight. The document that was produced from those meetings – the EAW – completely ignored the input of those stakeholders. Therefore the conclusion is that Hennepin County never had any serious intention of working with those stakeholders and used that process to complete one of their required goals which was to conduct public meetings. Hennepin County has continued to withhold information from public authorities like the Met Council, Regional Rail Authority and the FTA by producing documents like the EAW and the DEIS that contain false information.”

Kandi Arries (Lenox Neighborhood): “I participated in the PMT as a concerned resident of Lenox neighborhood. The PMT was ‘pitched’ as a chance to problem solve and discuss issues openly. It became apparent though that the PMT was a poster child for government decisions that are made at the top, regardless of the input of the residents and the people impacted. Residents asked questions during the open forum but no answers were given. PMT members gave input to the consultant staff but responses were rare, if at all. Major changes were implemented by the county and the engineer- the lose of the southern connection and change of the cedar lake bike trail to a bridge. These changes were just implemented without the input of the members. The PMT was the forcing of the county wishes regardless of the resident concerns. Shameful.”

Jeremy Anderson (Lenox Neighborhood): "I participated in the PMT meetings as a representative--along with Kandi Arries--of the Lenox neighborhood. Together, we solicited many pages of comments and suggestions for remediation, and submitted that information to the County. Everything we submitted was summarily ignored. At every turn, the County pretended that the changes THEY wanted were the ones which we had submitted, and that we had never submitted any suggestions. When questions were asked, the answer given by the representatives of the county was: 'this meeting is not to address that question.' -- it didn't matter WHAT the question was. My time was wasted, every citizen who attended had their time wasted, and the County wasted a significant amount of money on a consultant who did nothing other than look confused or defer to a representative of the county. I have never experienced anything so frustrating in my years of dealing with government at all levels. I have learned from this process that Hennepin County does what Hennepin County wishes, regardless of what the citizens say. I would expect government like this in a Monarchy, an Oligarchy, or some sort of despotic Dictatorship. Behavior such as this from a supposedly representative government is absurd, shameful, and should not in any way be encouraged. The irregularities around the EAW and DEIS are so massive, so coordinated and so mind-boggling as to suggest fraud and graft on a quite noticeable scale. The County has continually dodged funding questions, and whenever a number is suggested which looked unfavorable to the freight reroute, that number has magically been declared a typo at a later date. It is my suspicion that if the proposal were shown to violate several of Newton's Laws, that Hennepin County would declare that Newton had been incorrect in his fundamental discovery."

Lois Zander (Sorenson Neighborhood): “As a member of the PMT and representative of the Sorensen Neighborhood, I was able to see first hand how the public process was manipulated to make it look as though our neighborhood concerns were actually going to be considered in making a determination about the re-route. Prior to the meetings, PMT representatives were asked to get input from their neighborhoods regarding mitigation, should the reroute go through St Louis Park. In good faith, a neighborhood meeting was called and a list of concerns and possible mitigations was put together. This process put me in the position of getting our hopes up that our position would be heard, just to be dashed when exactly zero mitigations were revealed in the final document. I then needed to go back to my neighbors with this unhappy news and an explanation as to why I bothered them in the first place.

“During PMT meetings, faulty results were given as proof we needed no mitigation for vibration, noise and safety. For example: an "expert" took a reading next to the current small train as it passed along the MN&S. He had beautiful charts and graphs all proving the noise was below any level of concern and therefore did not need to be mitigated. This certainly does not represent the noise of the mile long 2 or 3 engine train which will be passing through our neighborhood and by our schools. The same ploy was used to prove to that vibration would not be a concern to our homes and schools. Do they take us for fools? This is a waste of taxpayer money and an insult to all of us who worked in good faith at our meetings.

“When we raised safety concerns about students being on the tracks going to the football field or to lunch, we were told the trains cannot stop and if someone were killed it would be their fault for trespassing. Students will still be at risk simply by walking across a sidewalk crossing and there they will not be trespassing.

“I was extremely disappointed to find that the SWLRT-DEIS was also a sham. Instead of a new study, the same faulty results were once again used to disprove our need for mitigation or co-location. Even though studies have clearly shown the MN&S is not suitable for the reroute and that co-location is a cheaper and more viable alternative, the powers that be inexplicably insist on going through on the MN&S in St Louis Park.

“We do not want this hideous reroute through the middle of our city for which we have worked so hard to gain model city status as a top 100 city in the country to live. We are very disappointed by this process, which took so much of our time and energy, and we will continue to fight this egregious ‘mistake’.”

Joe LaPray (Sorenson Neighborhood) and Jami LaPray (Safety in the Park): "Almost fifteen years ago we got involved in the effort to stop the proposed freight rail re-route. We started small, writing letters to our elected officials and commenting during the scoping of the SWLRT. Each time we commented we were ignored or told the relocation of freight will make someone else's life easier. We vowed to continue to work toward a resolution that would not cost us our safety and home.

"When the PMT was formed we both volunteered to take part. The idea that we might finally be heard was wonderful. We were told the PMT members would have input on the design of the proposed re-route . We believed that even if we did not get everything we wanted, at least our ideas would be part of the design and life would be better for all of St. Louis Park. From the beginning this was not the case. Questions we asked either went unanswered or if answered after weeks of waiting the answers were cursory. We were told during the August 26, 2010 PMT meeting where in the process mitigation would be discussed and considered. In good faith we worked hard to reach out to our neighbors and compile a list that was not frivolous (we wanted things like bushes and sound barriers) we submitted that list to Kimley-Horn the engineering firm writing the EAW. When the EAW was finally published the list we worked hard to compile was not even a footnote in the EAW document.

"Other information gleaned during the PMT process that is pertinent to our concern was also left out of the EAW document and subsequently left out of the SWLRT-DEIS. For Example: during one of the meetings, Joseph asked, Bob Suko General Manager of the TC&W Railroad a question about the ability of a loaded unit train to stop should an obstacle be in an intersection near the Dakota and Library Lane intersections. The answer was "no" they could not stop.

"In the end it can only be concluded that the PMT process was designed to fulfill the duty of government agency to hold public meetings. Nothing else came from the process."

Thom Miller (Safety in the Park): "The entire PMT process was clearly not designed for public input, but rather for the county 'check the box' that they had held public meetings. Each meeting included a rather heated exchange between the facilitators and members on the re-route issue because the facilitators tried to shut down any such discussion."

The DEIS fails to mention the 2011 April 17 and 28 freight re-route listening sessions that were held by the city of St. Louis Park. Hundreds of St. Louis Park residents voiced their opposition to the freight reroute. Those comments should be included as part of the DEIS. These comments are especially valuable considering the freight issue discussion was excluded from the DEIS scoping process. Video of the listening sessions can be found at http://vimeo.com/23005381 and http://vimeo.com/23047057.

12.2.1
SATETEA-LU Section 6002 states:
“'(1) PARTICIPATION- As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in defining the purpose and need for a project.

'(4) ALTERNATIVES ANALYSIS-
'(A) PARTICIPATION- As early as practicable during the environmental review process, the lead agency shall provide an opportunity for involvement by participating agencies and the public in determining the range of alternatives to be considered for a project.
'(B) RANGE OF ALTERNATIVES- Following participation under paragraph (1), the lead agency shall determine the range of alternatives for consideration in any document which the lead agency is responsible for preparing for the project.
'(C) METHODOLOGIES- The lead agency also shall determine, in collaboration with participating agencies at appropriate times during the study process, the methodologies to be used and the level of detail required in the analysis of each alternative for a project.
'(D) PREFERRED ALTERNATIVE- At the discretion of the lead agency, the preferred alternative for a project, after being identified, may be developed to a higher level of detail than other alternatives in order to facilitate the development of mitigation measures or concurrent compliance with other applicable laws if the lead agency determines that the development of such higher level of detail will not prevent the lead agency from making an impartial decision as to whether to accept another alternative which is being considered in the environmental review process.”

Hennepin County purposely kept the freight issue out of the SW LRT scope despite multiple requests from the City of St. Louis Park, the City of St. Louis Park School Board and the public. They clearly were not following the SAFETEA-LU directive to involve the public and participating agencies as early as possible. In fact, they did quite the opposite. The reroute was purposely excluded from the SW LRT scope so that Hennepin County could keep its agenda to remove the freight from the Kenilworth Corridor. The preferred alternative was developed to a much higher level of detail than LRT 3A-1 (co-location). Hennepin County has made every effort to keep co-location off the table. By the time the FTA forced Hennepin County to include co-location in the scope of the DEIS, so much progress has been made on the SW LRT project that it is impossible for the Met Council to make an impartial decision on the reroute verses co-location. The Met Council is not seriously considering co-location because a vote on the LPA has already occurred. The LPA selection process must be reopened with the freight issue included in order for an impartial decision to be made.

12.2.2

The Section 106 review process is an integral component of the National Historic Preservation Act (NHPA) of 1966. Section 106 of the NHPA requires each federal agency to identify and assess the effects their actions will have on historic resources. The process requires each federal agency to consider public views and concerns about historic preservation issues when making final project decisions. The ultimate goal of Section 106 is to seek agreement among these participants regarding preservation matters arising during the review process. At the time that the Section 106 notification letters were sent out, the potential reroute of freight was not considered part of the SW LRT project. The Section 106 review process should be done with the potential reroute of freight included.

12.3.1

From the initiation of the Draft EIS process in the spring of 2008, Southwest Transitway project staff have been collecting public comments and filing a public comment database specifically designed for the project. Currently, this database contains more than 1,000 comments provided by approximately 250 commenter. The database excludes any comments regarding the freight issue because the freight issue was not part of the SW LRT scope prior to Sept, 2011. The LPA selection process must be redone with the freight issue included so that public input and an unbiased decision about the LPA can be obtained.

12.3.2

In this section the FTA and the Metropolitan Council state that they will continue to meet with interested parties and stakeholders throughout the NEPA process. This section describes Metropolitan Council developed Communications and Public Involvement Plan (CPIP) which recognizes the need to communicate with the public. The CPIP's goals are:

1. Develop, maintain and support broad public understanding and support of the project as an essential means to improve our transportation system and maintain regional competitiveness.

2. Build mutual trust between the Metropolitan Council, its partners and the public by creating transparency through information sharing and regular, clear, userfriendly, and two-way communication about the project with community members, residents, businesses and interested groups in the corridor.

3. Promote public input into the process by providing opportunities for early and continuing public participation and conversation between the Metropolitan Council and the public.

4. Maintain on-going communication with project partners and ensure that key messages are consistent, clear and responsive to changing needs.

5. Inform elected officials and funding partners of the project and status to ensure clear understanding of the project, timing and needs.

6. Provide timely public information and engagement to ensure that the project stays on schedule and avoids inflationary costs due to delays.

The Metropolitan Council has failed reaching any of these goals in regards to individuals concerned with the freight issue. Because the freight issue was excluded from the vast majority of the SW LRT scoping period, Safety in the Park has attempted to set up a conference call between the Met Council, the FTA and the Safety in the Park co-chairs. Safety in the Park believes that this conference call would not make up for the exclusion of the freight issue for the majority of the SW LRT scoping period but would be a small step towards helping the FTA and Met Council understand the public's concerns regarding the potential reroute. Safety in the Park is optimistic that a conference call can be set up in the near future.

APPENDIX H, PART 1:

MN&S Rail Study, March 13 (pages 64-189)

In September 2011, the FTA requested that the SWLRT DEIS include an analysis of the impacts of re-routing the TC&W freight traffic. The FTA also requested an analysis of the co-location of the freight rail with the LPA or 3A such that a full analysis of alternatives would be completed according the NEPA regulations.

The MN&S Report is the information and data that was used in the analysis of the environmental impacts for the FRR sections.

It is important to note that the information contained within the report is the same data that was presented as the MN&S Freight Study Environmental Assessment Worksheet completed by the Minnesota Department of Transportation, dated May 12, 2011, with collaboration from the Hennepin County Regional Rail Authority. During the 30 day comment period, Safety in the Park!, the City of St Louis Park, local agencies, Canadian Pacific and TC&W Rail companies, and many residents and neighborhood associations commented on the impacts discussed, including a request for further study.

The Minnesota Department of Transportation released a Finding of Facts and Conclusions on June 30, 2011 which listed the projects as a Finding of No Significant Impacts and that the project did not warrant further study as an EIS. The City of St Louis Park and a group of impacted residents and businesses appealed this decision to the Minnesota Court of Appeals, following the guidelines established within the State of Minnesota.

The City Of St Louis Park appealed on the basis of: 1) that the MN&S freight rail project and SWLRT was a connected action; 2) failure to treat the freight rail project as a connected action eliminated the option of including a environmental analysis of co-locating the freight rail and light rail in the Kenilworth Corridor and 3) the MN&S freight rail project as a stand alone project has the potential for significant impacts, requiring an Environmental Impact Statement.

The impacted residents and businesses appealed on the basis that: 1) the EAW violated Minnesota Environmental Protection Act (MEPA) because it fails to consider the SWLRT as a connected and phased action; 2) MN&S Freight Rail Study analysis of Noise and Vibration, and mitigation, is inadequate and 3) the analysis of the project's impacts to safety was inadequate.

After the September 2011 FTA letter and during the appeal process, representatives from Hennepin County requested that the appeals would be dropped. (LaPray Response to the motion to dismiss Jan 10, 2012)

Within two weeks of the scheduled appeal court date, the Office of the Hennepin County Attorney issued a statement dated December 19, 2011 from the Hennepin County Regional Rail Authority that the MN&S Freight Rail Project no longer warranted a separate environmental analysis as a stand alone project. On December 20, the Minnesota Department of Transportation issued a statement proclaiming that MnDot 'vacates' the EAW for the Proposed Freight project. The action of 'vacating' the document was an unprecedented end to an Environmental Assessment Worksheet in Minnesota but it forced the appeal to be dropped because there was no environmental document to appeal. This is a violation of the trust of constituents that governing bodies will act in good faith and without a predetermined objective - an important right within government projects.

It is with this history that the MN&S Report included as supporting documentation for the freight rail reroute must be considered. The MN&S report is the same hard field data that was presented as the MN&S Freight Rail Project EAW. The MN&S report does not include anything significantly different even though the EAW project was in the steps for an appeal, requesting more study of the impacts. It has the same inaccuracies and NEPA, MEPA violations. The SWLRT DEIS usage of this as supporting evidence therefore can only include the same inaccuracies and environmental act violations, partly due to the fact that the request for additional study was ignored by Hennepin County. A significant part of the EAW appeal was the request that the project was studied to the level of an Environmental Impact Statement. This only highlights that the MN&S Report and the included field studies are not to the level of study of an EIS. Yet, this is the information simply inserted into the SWLRT DEIS as an equal study and evaluation.

In addition, the MN&S Report is dated as March 13, 2012 but it is not clear who the report was released to. The staff at the City of St Louis Park were not consulted which highlights that the report did not have full disclosure with impacted stakeholders.

Whenever possible- comments from the EAW or the appeals have been used in this response.

Source for the MN&S Freight Rail Study:
http://mnsrailstudy.org/yahoo_site_admin/assets/docs/FINAL_MNS_Freight_Rail_Study_EAW_05-12-2011.131184329.pdf

Source for the MnDot Finding of Facts and Conclusions
http://mnsrailstudy.org/yahoo_site_admin/assets/docs/MNS_Findings_of_Fact_June302011.187180927.pdf

SAFETY IN THE PARK!

APPENDIX

CHAPTER 1 DOCUMENTS

SAFETY IN THE PARK!

APPENDIX

CHAPTER 4 DOCUMENTS

SAFETY IN THE PARK!

APPENDIX

CHAPTER 5 DOCUMENTS

SAFETY IN THE PARK!

APPENDIX

CHAPTER 7 DOCUMENTS

SAFETY IN THE PARK!

APPENDIX

CHAPTER 10 DOCUMENTS

SAFETY IN THE PARK!

APPENDIX

CHAPTER 12 DOCUMENTS

SAFETY IN THE PARK!

APPENDIX

OTHER SUPPORTING DOCUMENTS

a. Rail Road comments to the MN&S Freight Rail EAW
http://mnsrailstudy.org/yahoo_site_admin/assets/docs/Railroad_Comments.18891450.pdf
b. City of St Louis Park appeal
c. MN&S Freight Rail Study EAW Brief of Relators Appeal, Jami Ann LaPray, et al
d. Office of Hennepin County letter, dated Dec. 19, 2011
e. MnDot Resolution, dated Dec. 20, 2011
f. LaPray Response to the motion to dismiss Jan 10, 2012
g. April 18, 2011 SEH DRAFT Technical Memo #4 - Comparison of the MN&S Route & The Kenilworth Route.
Key findings from SEH DRAFT Technical Memo # 4
http://www.stlouispark.org/webfiles/file/community-dev/techmemo_4.pdf

See Comment #777 for Theme Delineations

From: Colleen Dreher <coledreher@comcast.net>
Date: December 30, 2012 11:40:37 AM CST
To: Colleen Dreher <coledreher@comcast.net
Subject: **DEIS COMMENTS**

To: Hennepin County
Housing, Community Works and Transit
ATTN: Southwest Transitway

From: THE LAKES CITIHOMES

The Lakes Citihomes consists of 83 townhouses. Many homeowners have resided here since they were constructed in 1984.
We will be substantially affected by both the LRT and the West Lake Station because of our extreme close proximity; both rails and station will be no more than a few hundred feet from our homes.
We have many valid concerns about preserving a quality of life here at the The Lakes. We have chosen to comment on what we feel are the most important issues described in the DEIS.
1) Preserving Pedestrian Access in the Neighborhood
2) Visual Quality and Aesthetics / Buffers & Barriers
3) Support of Freight Rail Re-Route
4) Neighborhood Opposition to Park & Ride

Thank you for your consideration,
THE LAKES CITIHOMES ASSOCIATION
3029 Lake Shore Drive
Minneapolis, MN 55416

1)

3.2.2.6 Neighborhoods and Community Cohesion

COMMENT: The infrequency of the current freight trains allow tracks to be easily crossed allowing residences north and west of the tracks to access parks, trails and retail businesses. The natural crossings and paths encourage pedestrian traffic in the area. Proposed LRT will run frequently and clearly alters the linkages within and among the neighborhoods. The Lakes Citihomes' high - density residential housing will be adjacent to the West Lake Station as well as the proposed line. The casual walking connections need to be preserved for pedestrian connections to retail, activity centers, parks and open spaces. There is also great opportunity to add more natural crossings encouraging local rail riders to walk and bike to the West Lake Station, therefore reducing automobile traffic.

See attached photos:

2)

3.6 Visual Quality and Aesthetics

COMMENT: The Lakes Citihomes will be heavily affected visually by the LRT and the West Lake Station. Station noise is also an obvious concern for homeowners. Deciduous vegetation, between our homes and the proposed rail line / West Lake Station, is marginal in the summer months and provides no visual barrier in the winter months. Much will likely be removed in construction. Excellent landscape design, including evergreens, land berms, shrubs etc. are crucial for preserving privacy both indoors and outdoors for homeowners. We urge engineers to employ high standards of design to preserve quality of life here at The Lakes Citihomes. As stakeholders, we ask that our opinions be considered during the planning process.

See attached photos:

3)

Support of Freight Rail Re-Route

COMMENT: The Lakes Cithomes Association supports the freight rail re-route as the only practical option. It is unworkable for freight rail and light rail to share the Kenilworth corridor.

4)

6.2.2.4 Transit Station Access

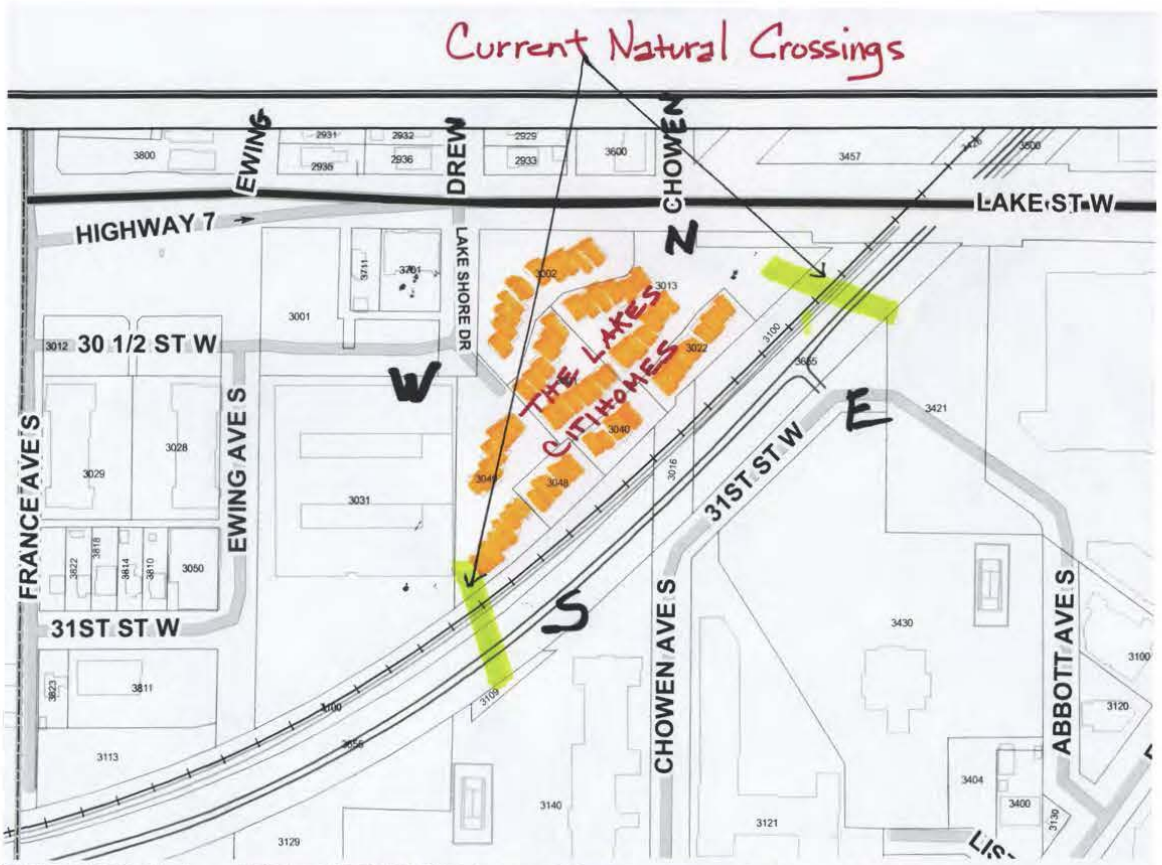
Neighborhood Opposition to Park & Ride

COMMENT: While we understand the necessity for Park & Rides along the suburban stretches of the Southwest LRT corridor, we are baffled by the suggestion of placing one near the proposed West Lake Street Station in a destination neighborhood. The intersections in the vicinity of West Lake Street and Excelsior Boulevard are already oversaturated with automobile congestion. Encouraging even more car traffic into this extraordinarily dense neighborhood by building additional parking would only exacerbate the problem. It would also further worsen the air quality near one of Minneapolis' most scenic locations. And the increased traffic congestion would deter far more people from using the local businesses than if the station were to be accessed only by pedestrians and bicyclists.

Furthermore, a Park & Ride would negatively alter the cultural identity of the neighborhood. The many parks and trails, "green" businesses, and the forthcoming light rail transit itself all help mold West Calhoun into an ecologically progressive neighborhood. To build a Park & Ride here, which, it should be noted, the City of Minneapolis has a policy prohibiting within the city limits, would be a giant cultural step backwards. A Park & Ride built in a destination neighborhood such as this would largely be used by people wishing to visit the second most popular attraction in the entire state of Minnesota, Lake Calhoun, defeating the purpose of using the light rail to get here instead.

For the above reasons, a Park & Ride at the proposed West Lake Street station would be counterproductive to the sustainability of the neighborhood, the health of its residents, and the very vision of the Southwest Transitway project.

EWING
DREW
CHOWEN
LAKE ST W
HIGHWAY 7
LAKE SHORE DR
30 1/2 ST W
FRANCE AVE S
EWING AVE S
31ST ST W
CHOWEN AVE S
ABBOTT AVE S
PROPOSED LRT LINE
THE LAKES CITIHOMES
PROPOSED WEST LAKE STATION
Distance of Townhomes from Rail - 63 ft on North
Distance of Townhomes from Rail - 24 ft on South
N
S


Current Natural Crossings
EWING
DREW
CHOWEN
LAKE ST W
HIGHWAY 7
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CHOWEN AVE S
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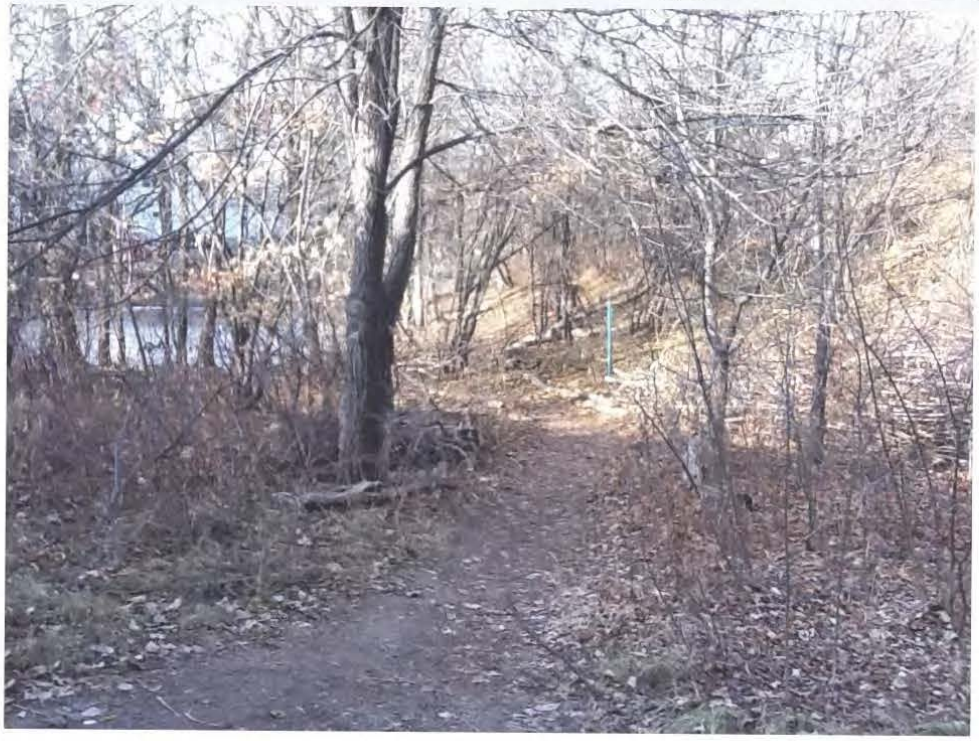

Colleen Dreher
<coledreher@comcast.net>
12/30/2012 01:03 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject SOUTHWEST TRANSITWAY DEIS COMMENT

See Comment #777 for Theme Delineations

To: Hennepin County
Housing, Community Works and Transit
ATTN: Southwest Transitway

From: THE LAKES CITIHOMES

The Lakes Citihomes consists of 83 townhouses. Many homeowners have resided here since they were constructed in 1984.
We will be substantially affected by both the LRT and the West Lake Station because of our extreme close proximity; both rails and station will be no more than a few hundred feet from our homes.
We have many valid concerns about preserving a quality of life here at the The Lakes. We have chosen to comment on what we feel are the most important issues described in the DEIS.
1) Preserving Pedestrian Access in the Neighborhood
2) Visual Quality and Aesthetics / Buffers & Barriers
3) Support of Freight Rail Re-Route
4) Neighborhood Opposition to Park & Ride

Thank you for your consideration,

THE LAKES CITIHOMES ASSOCIATION
3029 Lake Shore Drive
Minneapolis, MN 55416

1)
3.2.2.6 Neighborhoods and Community Cohesion

COMMENT: The infrequency of the current freight trains allow tracks to be easily crossed allowing residences north and west of the tracks to access parks, trails and retail businesses. The natural crossings and paths encourage pedestrian traffic in the area. Proposed LRT will run frequently and clearly alters the linkages within and among the neighborhoods. The Lakes Citihomes' high - density residential housing will be adjacent to the West Lake Station as well as the proposed line. The casual walking connections need to be preserved for pedestrian connections to retail, activity centers,

parks and open spaces. There is also great opportunity to add more natural crossings encouraging local rail riders to walk and bike to the West Lake Station, therefore reducing automobile traffic.

See attached photos:

2)

3.6 Visual Quality and Aesthetics

COMMENT: The Lakes Citihomes will be heavily affected visually by the LRT and the West Lake Station. Station noise is also an obvious concern for homeowners. Deciduous vegetation, between our homes and the proposed rail line / West Lake Station, is marginal in the summer months and provides no visual barrier in the winter months. Much will likely be removed in construction. Excellent landscape design, including evergreens, land berms, shrubs etc. are crucial for preserving privacy both indoors and outdoors for homeowners. We urge engineers to employ high standards of design to preserve quality of life here at The Lakes Citihomes. As stakeholders, we ask that our opinions be considered during the planning process.

See attached photos:

3)

Support of Freight Rail Re-Route

COMMENT: The Lakes Cithomes Association supports the freight rail re-route as the only practical option. It is unworkable for freight rail and light rail to share the Kenilworth corridor.

4)

6.2.2.4 Transit Station Access

Neighborhood Opposition to Park & Ride

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more people from using the local businesses than if the station were to be accessed only by pedestrians and bicyclists.

Furthermore, a Park & Ride would negatively alter the cultural identity of the neighborhood. The many parks and trails, "green" businesses, and the forthcoming light rail transit itself all help mold West Calhoun into an ecologically progressive neighborhood. To build a Park & Ride here, which, it should be noted, the City of Minneapolis has a policy prohibiting within the city limits, would be a giant cultural step backwards. A Park & Ride built in a destination neighborhood such as this would largely be used by people wishing to visit the second most popular attraction in the entire state of Minnesota, Lake Calhoun, defeating the purpose of using the light rail to get here instead.

For the above reasons, a Park & Ride at the proposed West Lake Street station would be counterproductive to the sustainability of the neighborhood, the health of its residents, and the very vision of the Southwest Transitway project.

Lakes Citihomes Proximity To Rails And Proposed West Lake Station

jodie lampcov
<jodiefahey@me.com>
12/30/2012 01:12 PM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject 3325 Dakota slp

C

I live directly across from the high school and have the rail right behind my property. I understand when I bought my house I was purchasing on a low active rail line. That is now going to change. I am not happy. What bothers me more is there are other options such as the outer rim of the cities and the Kenwood area. But as usual, our community did not play politics with hennipen county board members as the Kenwood area did, so now it is our problem.
So once again safety and the environment is being overlooked for capital.

Thank you,
Jodie lampcov Fahey
3325 Dakota ave
St. Louis park 55416

Sent with Peace

Lee Lynch
<Lee@greenroxpartners.com
>

12/30/2012 02:00 PM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject CedarLake Pkwy Bridge

E8

I do not have the necessary skills to delve deeply into the Light Rail Deis concerning the complicated intersection at Burnam Rd. and Cedar Lake Parkway. It would seem to me that the underground alternative has not been considered. Is tunneling simply too expensive. If so, how much more?? We all agree that the lakes and the surrounding enviorment is priceless and worth preservation. The proposed bridge makes the un needed superbridge over the St. Croix River look like a thing of enviormental beauty. Please consider going down, not up. It would reduce visual, noise and light pollution.

--

PLEASE NOTE – MY EMAIL ADDRESS HAS CHANGED TO: lee@greenroxpartners.com

Lee Lynch
Greenrox Partners, LLC
City Center
615 Hennepin Ave., #140
Minneapolis, MN 55403
Phone: 612-455-9535

Lynne Stobbe
<lynnestobbe@gmail.com>
12/30/2012 02:53 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject OPPOSED to Southwest Light Rail Transit

C

To Whom It May Concern:

I am OPPOSED to the freight rail re-route as outlined in the SWLRT DEIS. By putting this proposed freight rail reroute through St. Louis Park - you will be endangering the lives of not only our St. Louis Park High School students, and families that live nearby. We who live near the high school routinely see the students duck under the railroad gates to go to the McDonald's or the athletic fields - with the proposed longer and faster students this is putting them at risk to be killed. According to the Department of Transportation: 94% of all railroad crossing accidents are caused by risky behavior. These longer & faster trains can take over a mile to stop (18 Football Fields). Do you think any student or even local driver will try to rush instead of waiting for these longer trains.

"Nearly half of all rail crashes occur when a train is traveling under 30mph (Dept of Transportation). Approximately every two hours there is a collision in the US between a train and either a vehicle or pedestrian." That is 12 incidents a day and you want to increase this percentage to 788% by putting this train re-route in the middle of the St. Louis Park High School campus. When the first student is killed - the citizens of St. Louis Park will be lining up to testify against Hennepin County and the State of Minnesota.

It is time for Hennepin County and the State of Minnesota to learn to be fiscally responsible. It would be less costly to leave the freight rail traffic where it currently is. In the last couple of years the State of Minnesota and Hennepin County has spent millions upgrading Highway 7, and putting in a new bridge at Wooddale, by forcing this re-route onto St. Louis Park you are wasting not only future money, but past money spent, because the freight traffic will cut many of us off from using this new access to Highway 7. Your plan that you are trying to force on us will create an unsafe and unlivable situation for our school children, our local

businesses, and our residents. This NEGATIVELY impacts our community.

Sincerely,

Lynne Stobbe
3056 Dakota Ave. S.
St. Louis Park, MN. 55416
(952)922-0893
--
lynnestobbe@gmail.com

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Jocelyn Simon
<jocelynsimon1@yahoo.com>

12/30/2012 02:55 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject SWLRT

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) published in regard the SWLRT which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

C

The current SWLRT-DEIS has significant flaws and the planned re-route idea either needs to be dropped completely or a great deal more study must be done. As this action is proposed and described in Chapter 1, Section 1.3.2.3 as rebuilding a little known, lightly used spur line into a main freight rail line, which will initially allow a 788% increase of rail car traffic. What the SWLRT-DEIS does not address, but should, are the real world impacts of this action on the affected area.

Besides my general concerns about the SWLRT-DEIS, the portion of the report dealing with Noise (3- 93 and 94) and Vibration (4-117) causes me the greatest concern. The SWLRT-DEIS underestimates the effects of vibration for because it considers only the immediate traffic increase from the re-route and not additional traffic that is likely to occur. Currently trains travel on the MN&S for approximately two hours a month. If the re-route occurs there will be a minimum of 6 hours and 39 minutes or a 232.5% increase in train related vibration will occur each a month. Currently, all vibration and its negative impacts occur five days a week during regular business hours. In the future vibration will occur on weekends and nights as well as during business hours. Not only will the duration of vibration increase, but also the amount of vibration will increase with longer, heavier trains. The assumption stated in the SWLRT-DEIS that the increase in vibration is insignificant is incorrect. Listed below are reasons why the assumptions are incorrect:

We are also led to believe that creating a quiet zone will end all of the noise issues. This assumption is incorrect for the following reasons:

1.

2.

3.

4. 5. 6.

A quiet zone is not a sure thing.

1. Implementation could be denied by the school board because the building of a

   quiet zone will limit access to the Senior High School
2. Locomotive engineers are compelled to blow the horn if they perceive a

   dangerous situation. What kind of responsible person would drive a train through

   a series of blind crossings, past several schools without blowing the horn?

Quiet zones do not limit locomotive noise

1. Multiple locomotives will be necessary for pulling a fully loaded train up the .86% grade if the new interconnect.

2. Multiple locomotives laboring with long trains will make more noise than the locomotives that currently use the MN&S

Trains traveling west will need to use their breaks to maintain a slow speed going down grade and through curves
Train wheels on curves squeal; the tighter the curve the greater the squeal.
Bells on crossing arms in a quiet zone will ring the entire time a train is in the crossing. Because there are currently no trains at night, even one night train means diminished livability.

None of
considered. This mitigation is not frivolous; it is necessary to maintain the safety, livability and property values for the residents of St. Louis Park.

the mitigation requested by the City of St. Louis Park on behalf of her residents is being

Name: Jocelyn Simon, homeowner

Address: 3274 Blackstone Avenue City/State/zip: St. Louis Park, MN Telephone: 612-670-6765

E-Mail: jocelynsimon1@yahoo.com

Mark Christiansen
<mchristiansen2002@gmail.com>
12/30/2012 03:10 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject Comment to DEIS

To Whom It May Concern:

Attached and pasted below is my comment I would like added to the DEIS for the SWLRT and proposed freight-rail reroute. I oppose the freight-rail reroute and ask for full and complete consideration of the truth before making any detrimental decisions. Thank you

To Whom It May Concern:

C

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

The proposed action of re-routing freight is described in Chapter 1, Section 1.3.2.3. The MN&S Spur tracks are a lightly used spur line within a high density urban, residential setting and directly adjacent to the St Louis Park Senior High. Using this as a proposed freight-rail route is of **deep concern** to many people in our community.

What is most concerning is the questionable approach many elected officials and state employees have taken while working on the SWLRT and the freight-rail reroute. There have been **reported errors and omissions** throughout the last few years, and decisions are being made based on this bad information, without full consideration of all the true details and facts around the issues. Beyond the trust deficit that's been created, **we just want a fair-shot** and fair consideration once everyone has correct information. And having communities work together, and not against each other should be the goal.

I can understand that change and progress will be met by opposition, and not always benefit 100% of people involved. With that understanding and empathy**, why can't we help those affected** to the best of our capabilities and creativity? No single person or group of people should feel like they are taking the brunt of this progress and made to feel like second-class citizens. There **should not have to be clear losers** that are ignored. We need to help our communities by providing safe, meaningful and legitimate mitigation. Make it worthwhile or desirable in some respects, to live next to the tracks. **Find ways to off-set the negative impacts** with positive reparations. For instance, **provide tax incentives** for property adjacent to the reroute. Or **provide sound-proof walls** and barriers, similar to what's used on our highways and interstates in the Twin Cities. Or financial assistance with selling or buying homes along the

route, or interest-free loans to repair homes that receive the increased vibration from the increased train traffic. **Please, if this has to happen, make mitigation a real, impactful thing.**

Thank you,

Name:__Mark Christiansen_____

Address:___3011 Brunswick Ave S._____

City/State/zip:__St. Louis Park, MN 55416_____

Telephone:__612-220-4393_____ E-Mail:____mchristiansen2002@gmail.com_____

To Whom It May Concern:

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) which includes the proposed freight rail re-route in St. Louis Park, Minnesota.

I oppose the freight rail re-route as outlined in the SWLRT DEIS. I believe it will create an unsafe and unlivable situation for our school children, our local businesses, and our residents.

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Thank you,

Name:__Mark Christiansen_____

Address:___3011 Brunswick Ave S._____

City/State/zip:__St. Louis Park, MN 55416_____

Telephone:__612-220-4393_____ E-Mail:____mchristiansen2002@gmail.com_____

Judy Meath
<meath@umn.edu>
12/30/2012 03:35 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject Comment on Southwest Transitway

To: Southwest Transitway Project Office

From: Judy L. Meath, resident of Kenwood neighborhood, Minneapolis

Home address:

2700 Kenilworth Place

Minneapolis, MN 55405

Home phone: 612-925-1771

Please consider my comments on the Draft Environmental Impact Statement (DEIS) for the proposed Southwest LRT/Transitway.

E8

S3

Concern about the overpass bridge over Cedar Lake Parkway: The bridge will impose a substantial negative visual impact on the scenic beauty of the area. The site of the proposed bridge is immediately adjacent to walking and biking trails, as well as to the Kenilworth Channel that links Lake of the Isles to Cedar Lake, and which thousands of Minnesotans and visitors to the state enjoy every year via canoe. The proposed bridge would detract significantly from the quiet and beauty of this area. I request that an alternative be found for the bridge (such as a tunnel or trench).

E4

O1

Concern about noise due to LRT trains: I think the DEIS is incorrect to categorize the park land to the west of the Kenilworth Corridor as a Federal Transportation Agency land-use noise category 3. Rather, this area should be designated Category 1, because *quiet is an essential element of its use* . This area offers precious opportunities to commune with nature. People walk and bike and canoe nearby, and birdsong is the predominant sound. Light rail noise will negatively impact enjoyment of this civic commonwealth. The DEIS fails to support adequate mitigation of noise caused by light rail trains and horns.

While I support noise mitigation for the enjoyment of the thousands of bikers, walkers, and canoists who use the Kenilworth Trail and Cedar Lake Trails, I also support noise mitigation for residents such as myself who live close to the proposed light rail. Noise caused by light rail trains and horns could drastically reduce quality of life for thousands of us who live nearby. I request that the noise imposed by light rail be mitigated, perhaps by trenching it, or by running it up Highway 100. E4 G2

Concern about preservation of historic landscape: The DEIS does not properly assess the impact of light rail on Cedar Lake Parkway, correctly identified as an "historic landscape" and eligible for the National Register of Historic Properties. Specifically, Cedar Lake Parkway is a treasured segment of Minneapolis' Grand Rounds, and features natural beauty enjoyed by thousands of Minnesota residents year-round, who use the Parkway for biking, walking, and enjoying the outdoors. The activity and noise of light rail poses a serious threat to the preservation of this historic landscape. I would like to see the landscape preserved. E2 S2 S4

Concern about biodiversity: On canoe trips along the Kenilworth Channel, I have seen mink, possum, coyote, deer, to name a few species. The DEIS fails to account for impacts on the habitat of these species. N8

Sincerely,

Judy L. Meath

Mary Schwanke
<mjschwanke@gmail.com>
12/30/2012 04:09 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject DEIS

I am responding to the Draft Environmental Impact Statement in specific areas that impact our neighborhood of Kenwood.

D

Relocation of Freight Rail: The freight rail must be relocated as supported in the DEIS. Co-location would mean destruction of 60 homes, the taking of parkland, the elimination of trails as well as other adverse impacts.

E8

Bridge over Cedar Lake Parkway: The proposed large cement bridge would be ugly, noisy and totally inconsistent with the area. It would look like an industrial park. I support a feasibility study of trenching or tunneling the LRT.

O6

Noise: the DEIS points to sever noise impacts on the residences, especially near stations. Noise mitigation needs to be the very best the planners can come up with.

D

E2

Preservation: Both the park and the trail are valuable assets. Existing park, trail and open green space must be preserved. What other city in the US has such a treasure for everyone to enjoy. Every year it is more and more utilized by an increasingly diverse population of families. I walk daily in the parks. I see the wildlife of fox, coyote, rabbits, deer,eagles in an urban environment. It must be preserved. We can do better than destroying everything for a people mover.

P4

Traffic: A traffic study needs to be done and the problems related to traffic need to be addressed to the neighborhood's satisfaction.

N2

Light Pollution: This was not considered at all. It must be, for it will impact the homes near the LRT as well as the wildlife.

O6

Vibration: A detailed assessment needs to be done in order to adequately mitigate the problems related to vibration.

I2

Public Safety: Kenwood has worked hard to increase the public safety at 21st street as well as Hidden Beach (Cedar Beach East). Safe access to the beach as well as ways to minimize illegal behavior in the secluded area that will be the 21st street station needs to happen. MPRB must be consulted. They have worked hard on this issue.

N4, N10

Environmental Impacts: Groundwater and drinking water must be protected in an area of very high sensitivity to pollution of the water table system. Contaminated soils must be dealt with appropriately.

G1

One last comment: I know this is the preferred alternative, but it seems to me that it was chosen to give the residents of Eden Prairie and the western suburbs a beautiful ride downtown through the park rather than considering the transportation needs of those north and south of Lake Street and east and west of Nicollet. It won't meet the needs of Minneapolis.

Mary Schwanke
1977 Kenwood Parkway

D Lott <bunnybg1@aol.com>
12/30/2012 04:58 PM

To swcorridor@co.hennepin.mn.us
cc jacobsjeffrey@comcast.net, hallfinslp@gmail.com, spanoslpcouncil@gmail.com, suesanger@comcast.net, annemavityslp@comcast.net, susansanta@aol.com,
bcc
Subject Response to SWLRT DEIS

C

Please reference my attached letter regarding the Southwest Light Rail Transit Draft Environmental Impact Statement. I strongly oppose this reroute as outlined in my letter.

Thank you for your consideration.

Deborah W. Lott
2754 Xenwood Ave. S.
St. Louis Park, MN 55416
(952) 435-5340

December 30, 2012

TO: Hennepin County Housing, Community Works and Transit

I am writing in response to the Southwest Light Rail Transit (SWLRT) – Draft Environmental Impact Statement (DEIS) , specifically the proposed freight rail re-route in St. Louis Park, Minnesota. I have several objections to the proposed reroute and question the validity of the DEIS which has so many inconsistencies, half-truths, and is riddled with misinformation and erroneous data. That this document was even submitted in support of a reroute through St. Louis Park only goes to show that, at best the writers did not do their homework or, at worst, are intentionally trying to mislead the community and decision-makers into thinking this reroute is truly the "preferred" alternative. Preferred to whom, I would ask?

C

While I have several issues with the reroute, my main issues are these:

- The reroute costs millions more than co-location. These costs will be paid for by taxpayers of Hennepin County and it does not include **any** mitigation for the people of St. Louis Park. In light of our current economic situation, spending a few extra million dollars here and there so haphazardly is greatly concerning to me. How can you make a recommendation on reroute vs. co-location without having an accurate cost analysis? It really makes me wonder about the motivation of those making the recommendations.

C

T2

- There are five schools within a half-mile of the reroute (the St. Louis Park High School building is within 75 feet of the tracks); there are no schools along the current co-location route, where the trains are currently operating.
- Re-routed, mile-long trains will simultaneously block up to six crossings several times a day. It will take trains 10 minutes or more to clear an intersection. I occasionally drop my grandson off at the high school in the mornings and can attest to the already congested area around the school. I see the constant flow of distracted teenagers as they cross the tracks in the morning between the school and McDonalds and can almost visualize a "beat-the-train" scenario as they rush to school….or a football game….or a band concert….or whatever activity is just across the tracks.
- The reroute will increase freight traffic on the MN&S route by over 700%. These trains will be more frequent, louder, longer and heavier than ever before. These tracks were not built for this kind of freight traffic and to not include any of these mitigation costs in the DEIS is irresponsible.

The quality of our neighborhoods is threatened. Our quality of life is threatened. The safety of our residence and visitors is threatened. Is this really the best plan we can come up with? Before you make a recommendation, please have all the facts, costs, and implications to our community.

Sincerely,

Deborah Lott
2754 Xenwood Avenue South
St. Louis Park, MN 55416
952-435-5340
Bunnybg1@aol.com

cc: St. Louis Park City Council

"Pelner, Dave C"
<dave_pelner@uhg.com>
12/30/2012 06:38 PM

To <swcorridor@co.hennepin.mn.us>
cc
bcc
Subject Comments regarding Southwest Transitway Draft Environmental Impact Statement

Dear Southwest Transitway

Please find attached UnitedHealth Group comments to Southwest Transitway Draft Environmental Impact Statement.

Regards

Dave Pelner
Sr. Director, Workplace Development
Real Estate Services | UnitedHealth Group
952.936.1659

This e-mail, including attachments, may include confidential and/or proprietary information, and may be used only by the person or entity to which it is addressed. If the reader of this e-mail is not the intended recipient or his or her authorized agent, the reader is hereby notified that any dissemination, distribution or copying of this e-mail is prohibited. If you have received this e-mail in error, please notify the sender by replying to this message and delete this e-mail immediately.

UNITEDHEALTH GROUP

9900 Bren Road East, MN008-E305, Minnetonka, MN 55343

December 30, 2012

Hennepin County
Housing, Community Works & Transit
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55414
swcorridor@co.hennepin.mn.us

RE: Comments of UnitedHealth Group to Southwest Transitway Draft Environmental Impact Statement ("DEIS") I2

These comments to the DEIS are submitted on behalf of UnitedHealth Group ("United") as owner of an approximately 68 acre parcel adjacent to the proposed City West station. This parcel is currently being developed by United in a phased development (the "Shady Oak Project") in accordance with a Development Agreement with the City of Eden Prairie, dated March 6, 2012.

These comments are specific to the Locally Preferred Alternative (LRT 3A) and to the conceptual engineering drawings for (1) the proposed TH 62 overpass bridge and (2) the grade & elevation of the track and City West station adjacent to the Shady Oak Project (as shown in DEIS Appendix F — part 1, page 38, sheet 11 of 15, which is attached (the "Concept Plan")).

United is concerned that if the Southwest LRT line is built consistent with the Concept Plan, it will have negative cumulative effects on the Shady Oak Project and the City West station. The following list itemizes our general concerns regarding the current delineated configuration: I2

- The track from the TH 62 overpass bridge to and through the City West station to the US 212 overpass bridge will be raised above the natural elevation of the Shady Oak Project 22 to 33 feet above the ground level.

- We calculate that at a minimum the track height at the City West station will be approximately 22 feet above the adjacent elevation and the probable station and potential adjoining structures will be approximately 52 feet above the adjacent elevation.

- It appears the means for supporting the elevated track is to raise grade up to meet the track I2 elevation presumably with either embankments or with retaining walls. The height of which would range from 22 to 33 feet.

- The length of the elevated portion of the LRT line which will be supported on either the berms or the retaining wall system is roughly 1,200 feet long.

These listed observations of the delineated configuration will result in numerous negative impacts on the Shady Oak Project. I2

- The station will become physically separated from the Shady Oak Project because of the 22 t foot height elevation differential. United intends to integrate the City West station into its Shady Oak Project, but the raised track and station will make this a practical impossibility.

- The track will be raised along the approximately 1,200 lineal feet of the easterly boundary of the Shady Oak Project and TH 62. This will significantly impact the visual quality and aesthetics of the Shady Oak Project. I2

- The configuration of the adjoining structures that are likely to parallel the City West station area track alignment will by functional adjacency be required to also be upwards of 50 feet elevated above grade thereby creating further separation of the City West station from the Shady Oak Project. I2

- The footprint zone articulated on the preliminary City West station diagram indicates that the impact of the transit stop and its potential adjoining structures will significantly overlap with the approved/negotiated zone of the Third Phase of the Shady Oak Project. I2

In order to mitigate the above listed impacts, the track should be lowered to approximately the natural elevation adjacent to the Shady Oak Project and the City West station. A couple ways to accomplish would be to either tunnel the LRT under TH62 by going lower a few blocks north of TH62 or bridging TH62 over the LRT in an open-air configuration thereby reducing the depth that the LRT track elevation would need to be lowered. The advantages to the Shady Oak Project of this are:

- Visual connectivity from TH62 to the Shady Oak Project will be improved. I2

- The day-to-day connections for the employee base at the Shady Oak Project will be improved as visual and pedestrian access to the City West platform is improved.

- Neighborhood access to the City West station across the United property from the south is improved as the platform elevation is lowered closer to natural grade.

- The removal of 22 to 33 foot high easterly barrier wall for the Shady Oak Road development will improve the views from the work environment on the lower three to four levels of the workplace environment being created in the latter phases of the development.

Thank you for taking these topics into consideration in the continued planning and development of the City West station in the Southwest Corridor.

Sincerely yours,

Dave Pelner
Senior Director, Enterprise Real Estate Services
UnitedHealth Group

Mary Benbenek
<benbe001@umn.edu>
12/30/2012 07:26 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject SW light rail corridor

SW Light Rail Corridor:
I am a resident in the Kenwood neighborhood and live within 1 block of the proposed SW light rail line. My husband and I were adamantly opposed to running the light rail through here and continue to be so. I was told at a community meeting that I had until December 31 to submit comments, so I am submitting comments regarding the light rail line here. Due to the holiday period and work requirements, it was not feasible for me to write at an earlier time. In any case, now that the SW light rail line has been, unfortunately, approved, I am writing to request NOT running the freight trains through here as well. We chose to move here, because this was a quiet neighborhood with ready access to the lakes and bike trails, a good place to raise children with a nearby school. Contrary to popular belief, many residents in Kenwood are NOT inordinately wealthy, but we were willing to pay the high property taxes that continue to rise annually, because we had a quality of life we valued. The short-sightedness of Minneapolis and Hennepin County speaks volumes as they seem prepared to throw away the beauty of one of the gems of the city in the name of progress, which is so typical of the workings of this city. I attended numerous meetings during the deliberation phase and was struck by the inordinate amount of skewed statistics, flawed ridership numbers, and a blatant lack of foresight for any type of remediation to the neighborhood. I distinctly remember one meeting when questions were asked about remediation of traffic and the answer was, "We don't address that until it is built". I will tell you that in most professions, a lack of planning is really not an option, but it seems that this has been par for the course in this venture. Now a proposal indicates that 7 dwellings in the neighborhood will be torn down, yet there is no information as to where these dwellings are located. Real people live in these dwellings and it is unfortunate the statement is made without any clarification. There is also a proposal to construct a monstrous bridge that will be a huge eye sore and likely a safety concern to bypass Cedar Lake Parkway. It would have been helpful to consider these aspects at an earlier stage. The current proposal will still markedly change the landscape, upset the natural balance, and create safety concerns for neighbors and visitors. I wonder if anyone on this committee has ventured here during the summer when Hidden Beach is awash with teens, families, and young adults. I also wonder if there are any environmentalists among you who have bothered to get up early, hear the pair of loons that visits every spring or the nesting birds in the rushes, or the deer that frequently surprise you on the walking and biking trails. To have light rail noisily make its way through here is bad enough, but to also consider running freight trains through here is unconscionable. I am really tired of Minneapolis deferring the suburbs at the expense of its own people. I wonder who among you has experienced the shaking of your house, the crack in the dining room from trains rumbling past and now we are to put up with the bells and whistles of light rail on an all too frequent basis. This is one of the oldest neighborhoods in Minneapolis and you are prepared to mow down the trees to put in a parking lot and add reams of traffic to a quiet residential neighborhood. We do not even have a regularly scheduled bus line. This route does NOT serve Minneapolis, it

D

P2

M4

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E4

serves the suburbs. I am sure those individuals will be only too happy to drive into our neighborhood and park our streets full to hop on the light rail to downtown. I will expect my taxes to go down to make up for this travesty and lack of foresight a well as to pay for the sound mitigation that we will no doubt require. I2 O1

Thank you,

Mary Benbenek
2052 Sheridan Avenue South

Vicki Moore
<vicki_moore@yahoo.com>
12/30/2012 09:08 PM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc
bcc
Subject SWLRT DEIS Comments

To whom it may concern:

I have lived in Harrison neighborhood for the past 20 years and have been involved in the Harrison Neighborhood Association during this time. I am deeply involved in many aspects of the community planning process for the SWLRT line and I was involved in the development of the Bassett Creek Valley Master Plan. A

I support the 3A Kenilworth alignment for SWLRT and I view it as an economic development opportunity for Harrison, which is an economic justice community. The Van White Station in Bassett Creek Valley is a critical anchor for economic development in the valley which represents an area of Minneapolis with a significantly underutilized parcel of publicly owned land. Its proximity to downtown Minneapolis should give it great potential for future successful economic development.

In addition, the station will serve as a link between impoverished North Minneapolis and the wealth of Lowry Hill to the south. Minneapolis will be better off as a city both morally and economically if north Minneapolis can be integrated into south Minneapolis. I2

Now is the time to unravel decades of institutionalized racism by integrating our city and the Van White station along the SWLRT line is a concrete step out of the shadows that our city's leaders chose to operate in decades ago.

Sincerely,

Vicki Moore

Sent from my iPhone

Mary Armstrong
<maryarmstrong212@yahoo.com>

12/30/2012 09:09 PM

Please respond to
Mary Armstrong
<maryarmstrong212@yahoo.com>

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject comment on DEIS for Southwest LRT

Re: Comment on DEIS for Southwest LRT
Date: Dec. 30, 2012
From: Mary Armstrong
2565 Xenwood Ave. S.
St. Louis Park, MN 55416
646-824-4809
maryarmstrong212@yahoo.com

To Whom It May Concern:

I am a recent transplant to the Birchwood area of St. Louis Park (early 2012), and my in-laws are 30-year residents of 42nd and Wooddale. I'm 43 years old, and this is where my husband and I plan to raise our daughter and spend the rest of our lives. I support regional transit and the Southwest LRT, but I would like to express my vehement opposition to the rerouting of heavy freight rail traffic through St. Louis Park. C

I would like to quote from a presentation by the nonprofit grass-roots group Safety in the Park:
"The MN&S corridor [here in St. Louis Park] ... features several blind tight curves, is elevated in multiple locations, crosses 6 tightly bunched roads at grade, and in order to be used for the re-route, a multi-million dollar ramp and bridge must be built to raise trains up 30 feet. Most importantly it runs directly adjacent to St. Louis Park High School."

Thomas Johnson, P.E. of Railroad & Metallurgical Engineering Inc., who professionally studies freight rail accidents, states:
.The main reason that there are few accidents now is that even with only 200 ft. of visibility at the Dakota and Library crossings, an 8 railcar/2 locomotive train at less than 10 mph can stop in 100 ft. or so without hitting anything that they can see. The new 132 railcar/3 locomotives/22,000 ton/ 8000 ft. long coal trains at up to 25 mph can take over a mile to stop..
.The proposed changes in frequency, weight, speed and volume of trains pose a significant increase in risk any way you look at it. .

The strikes against the reroute are not just about safety, accessibility and livability, although those are critical concerns: It simply does not add up in any common-sense way. The heavy freight trains are already in the Kenilworth Corridor, and the Southwest LRT could be accommodated there as well. Why on earth would you move the freight rail line instead of the bike trail? Why is co-location the preferred option for the future Bottineau line but not for the Southwest line? It appears that the standard shifts according to whatever the county has decided it would like to impose. G2

I will not even address the shifting cost (is it $123 million, or $23 million?), but it does seem suspiciously convenient that the numbers changed in the county's favor as soon as the opposition to the freight reroute started getting attention in the news media.

These are not simply lines on a map: These are people's lives, homes and neighborhoods at stake. I have heard the vague and nonsensical argument that "promises were made to Kenwood" about moving the freight line, and another more plausible theory: that county employees, several years ago and without any real authority to do so, simply "moved" the freight trains around in the early planning stages for the LRT. Now, the machine of bureaucracy is unwilling or unable to admit that it may have made a mistake, gone beyond its authority, or failed to consider the potentially devastating impact on residents and other stakeholders.

It has been truly disconcerting to observe the dismissive manner that St. Louis Park residents have been treated by Hennepin County, the Metropolitan Council and some of our own city officials. Our mayor has compared the inevitability of the reroute to the coming of winter. If the mayor is correct then this entire process is an expensive charade – even a fraud. I have no doubts about winter, but I do have faith in the democratic process – the one in which the majority rules but may not trample on the rights of a minority. It might appear that this issue affects a relatively small number of people – but when there are feasible, cheaper and more common-sense options available, why not take them?

You, our leaders and decision makers, are supposed to be in the business of public service. The people here do not want the reroute, and it ultimately makes no sense. Please, listen to the public opposition in St. Louis Park and abandon the reroute. Co-location is the only way to go.

"George Puzak"
<greenparks@comcast.net>
12/30/2012 09:56 PM

To <swcorridor@co.hennepin.mn.us>
cc
bcc
Subject Comments on SW LRT DEIS dated 12-30-2012

Catherine and George Puzak
1780 Girard Ave. S.
Minneapolis, MN 55403
cell 612-250-6846, h 612-374-3624
greenparks@comcast.net

December 30, 2012

Hennepin County
Housing, Community Works & Transit
ATTN: Southwest Transitway
701 Fourth Avenue South, Suite 400
Minneapolis, MN 55415
via US mail and email to swcorridor@co.hennepin.mn.us

Re: Comments on the Southwest Transitway Draft Environmental Impact Statement

Dear Project Manager:

Please accept these comments on the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway (LRT) project. The comments first address freight rail and LRT track siting issues. Subsequent comments discuss specific Minneapolis locations within the corridor.

D

Consistent with the DEIS recommendation, freight rail should be rerouted from the Kenilworth Corridor to a different freight rail corridor. Operating both freight and light rail in the Kenilworth Corridor would irreparably harm natural green space. It would destroy sixty homes. It would also eliminate highly used non-motorized recreational and commuter trails. By rerouting freight rail, the outcome of preserving this tranquil, park-like corridor and water channel may be achieved.

Outcomes of LRT track siting: LRT tracks should be placed to preserve as much open space as possible for people, wildlife, and nature. LRT tracks should also allow as much space as possible for mitigation on both sides of the LRT line, especially where residential properties are on both sides of the corridor. These outcomes produce two recommendations.

G2

First, north of Franklin Avenue and below the Kenwood water tower, LRT tracks should hug the base of Kenwood bluff. This design places the tracks on the east side of the corridor. It makes trails and paths into a continuous loop around Cedar Lake without rail

obstruction. This “cutting the corner” design would shorten the route and travel time to downtown Minneapolis. The base of Kenwood bluff would absorb noise and vibrations. Most importantly, it would achieve the outcome of preserving open space (“Conservancy”) between the SW LRT, the north-east corner of Cedar Lake and the Burlington Northern rail line for people, wildlife, and nature. D

Second, between Franklin Avenue west and west Lake Street, LRT tracks should be sited in the center of the corridor. This placement would allow space for mitigation on both sides of the SW LRT line, where it is in closest proximity to peoples’ homes. J10

Comments on Specific Minneapolis Locations

1. Cedar Lake Regional Trail and SWLRT Crossing Area

Outcome: The Cedar Lake Regional Trail, Kenilworth Trail and Cedar Lake pathway should provide a continuous uninterrupted loop around Cedar Lake similar to the loop trails around Lake of the Isles, Lake Calhoun, and Lake Harriet. If the Kenilworth Trail remains east of the LRT tracks, trail users will be forced to cross tracks where 250 LRT trains/day will be passing. Trail users circulating Cedar Lake should have the same safe, efficient, and pleasant experience offered by the regional paths around the other three lakes in the regional trail system. If the Cedar Lake or Kenilworth trails cross the SW LRT line, the trails should be grade-separated from the LRT line. G2

2. Intersection of West 21st Street and SW LRT tracks

Outcomes: Uninterrupted access to east Cedar Lake beach and to homes on the 2000 block of Upton Avenue South. Station design should enhance safety for Cedar Lake Park users and local residents. Cedar Lake Park and the surrounding corridor should maintain their “up-north” feel. They are quiet spaces with multiple layers of vegetation—grasses, bushes, and trees. An estimated 250 LRT trains/day will mar the tranquil, green setting of this area. Tunneling or trenching LRT tracks and land bridging over them would best mitigate the visual and noise pollution caused by LRT service in this area. E0 E2

3. Kenilworth Channel and Bridge

Dredging the Kenilworth Channel helped form the Chain of Lakes as a historic and regional amenity. **Outcome:** People and wildlife that are experiencing this area should enjoy naturally occurring lights and sounds. **This location is unique in its lack of artificial light.** No street-grid lighting is located here, due to the expanse of lake water, park land, and open space. Headlights from LRT trains during dark hours would forever change the character and night sky experience of this unique urban space. S3, S4 N1, N2, N8

4. Cedar Lake Parkway-Grand Rounds

Outcome: Preserve the integrity of the Grand Rounds National Scenic Byway by

maintaining the ambiance, views, and park experience at south end of Cedar Lake and Beach. An LRT bridge of Cedar Lake parkway is insufficient. It would spread noise and block views. It would also be visually jarring and inconsistent with the park setting. Tunneling or trenching LRT under Cedar Lake Parkway would minimize the adverse effects at this unique intersection. E4 E8 N2

Outcome: Provide a continuous, safe, and pleasant trail experience for Kenilworth Trail users at Cedar Lake Parkway. The Kenilworth Trail should be grade-separated from traffic on Cedar Lake Parkway-Grand Rounds. If the trail is on the west side of the LRT tracks, it could directly connect to the South Cedar Beach and provide a continuous trail loop onto the Cedar Lake Pathway at South Cedar Beach. Going south after crossing Cedar Lake Parkway, the trail could use a landbridge to ramp over a depressed LRT line. The Kenilworth Trail would switch to the east side of the LRT tracks, providing access to Park Siding Park and then continue south to intersect with the Midtown Greenway. E0 G2

Conclusion

Given the Kenilworth Corridor's value as a critical greenspace and waterway connector and as a non-motorized recreational and commuter pathway, LRT impacts must be substantially mitigated. Minneapolis has a history of mitigating impacts from rail traffic. A nearby example is the 2.8 mile east-west depressed rail trench from Cedar to Hennepin avenues. More recently, Minneapolis built a tunnel for new LRT service at the airport. These examples should apply to any LRT routing through Kenilworth. E2

One component of the mitigation should include a rail tunnel from Lake Street to Franklin Avenue or to I-394. The length would be approximately one mile. The tunnel would go under Cedar Lake Parkway, the Kenilworth Channel, and West 21st Street. The tunnel would resurface in the open space below Kenwood Hill and the historic water tower. E0

A tunnel in Kenilworth is essential to mitigate the impacts of 250 daily LRT trains in this sensitive corridor. A tunnel would follow Minneapolis' precedent of rail trenching. It would minimize traffic congestion at Cedar Lake Parkway, a **National Scenic Byway,** and at West 21st Street. Most importantly, the tunnel would help preserve natural assets of regional and state significance—the Kenilworth greenspace, the Minneapolis Chain of Lakes Regional Park, and Cedar Lake Park Wildlife and Nature Preserve. S2 E0

An LRT route connecting Minneapolis to southwest Hennepin County is a 100-year decision. The environmental impacts of LRT service must be carefully considered. Substantial and meaningful mitigation must be designed, funded, and implemented for the SW LRT line to achieve its full potential.

Thank you for your consideration.

Catherine and George Puzak

Catherine and George Puzak
1780 Girard Ave. S.
Minneapolis, MN 55403
cell 612-250-6846, h 612-374-3624
greenparks@comcast.net

December 30, 2012

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One component of the mitigation should include a rail tunnel from Lake Street to Franklin Avenue or to I-394. The length would be approximately one mile. The tunnel would go under Cedar Lake Parkway, the Kenilworth Channel, and West 21st Street. The tunnel would resurface in the open space below Kenwood Hill and the historic water tower.

A tunnel in Kenilworth is essential to mitigate the impacts of 250 daily LRT trains in this sensitive corridor. A tunnel would follow Minneapolis' precedent of rail trenching. It would minimize traffic congestion at Cedar Lake Parkway, a **National Scenic Byway,** and at West 21st Street. Most importantly, the tunnel would help preserve natural assets of regional and state significance—the Kenilworth greenspace, the Minneapolis Chain of Lakes Regional Park, and Cedar Lake Park Wildlife and Nature Preserve.

An LRT route connecting Minneapolis to southwest Hennepin County is a 100-year decision. The environmental impacts of LRT service must be carefully considered. Substantial and meaningful mitigation must be designed, funded, and implemented for the SW LRT line to achieve its full potential.

Thank you for your consideration.

Catherine Puzak
George Puzak

Catherine and George Puzak

Jeff Urban
<jeff.urban@solutiondesign.com>
12/30/2012 10:21 PM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc "jacobsjeffrey@comcast.net" <jacobsjeffrey@comcast.net>, "hallfinslp@gmail.com" <hallfinslp@gmail.com>, "spanoslpcouncil@gmail.com"
bcc
Subject SW Lightrail DEIS

Hello,

My name is Jeff Urban and my family and I reside in St. Louis Park. We have been following the discussions regarding the SW Lightrail DEIS. We do not feel the DEIS has fairly evaluated the freight rail alternatives, specifically, the freight rail colocation (3A-1). Relocating the freight rail through the heart of St. Louis Park's middle class neighborhood and high school is not only not safe, but will forever change the economics on the city. Simply by looking at a map of St. Louis Park and the existing neighborhoods and you realize the freight rail will travel through the heart of the largest section of middle-class housing in the city. This economic impact, the ripple effect, is not addressed.

C

E8

E0

Speaking personally, we have lived in the Birchwood neighborhood for over 15 years. We have never imagined leaving St. Louis Park. We are now having this discussion. We would love to stay in SLP, but the housing options are very limited if the freight rail goes through. Houses are either too expensive or a step down. There are very few options. We are also very concerned about our daughter attending the high school with the proposed location of the freight rail. The DEIS does not consider these very real impacts on the city – middle class families leaving the city.

We hope it is realized that the DEIS has not fairly evaluated or represented the freight rail options.

Thank you,

Jeff, Susan and Sydney Urban
2653 Xenwood Ave S
St. Louis Park, MN 55416

Jeff Urban
Director of Recruiting | sdg | 10275 Wayzata Blvd. Suite 300 | Minnetonka, MN 55305
612.868.7980 (mobile) | 952.278.2559 (office) | 952.278.2501 (fax) | www.solutiondesign.com
LinkedIn: http://www.linkedin.com/in/jeffurban | Twitter: http://twitter.com/jeffurban

Minneapolis/St. Paul Business Journal's Best Places to Work & Fast 50 Company

Christopher Johnson
<coachpub@gmail.com>
12/30/2012 10:41 PM

To swcorridor@co.hennepin.mn.us
cc Christopher Johnson <coachpub@gmail.com>
bcc
Subject DEIS Southwest Light Rail - Christopher B. Johnson Comments Submitted 12-30-12 @ 10:41pm

Operating cost/revenue?

- It's documented that the cost to operate & maintain the SWLRT in the 1st year is $32.7M, with operating revenue of $9.2M, with a net operating loss of $23.5M.
  - *How is the net operating loss covered and who pays for it?*
  - *What about operating losses for subsequent years, if any how will they be paid?* T0
  - *What is the plan to grow the SWLRT revenue to $32.7M to break even?*
  - *How many years will it take to make the SWLRT a break even concern?* T1
  - *How many riders per year will it take to make the SWLRT self-sufficient?*
  - *How many years of revenue will it take to pay for the amount it takes to build the rail line?* T2

Noise abatement:

- The Metropolitan Airports Commission has a program for neighbors who are affected by airplane take-off and landings in a geographical area. Metropolitan Airports Commission neighborhood noise abatement efforts: http://www.macnoise.com/our-neighbors/msp-noise-abatement-efforts O1
  - *What is the noise abatement plan or program for property tax payers who live along the Kenilworth trail if the SWLRT is built at grade or on a bridge at Cedar lake Parkway?*

Health and economic effects:

- What are the impacts: given 258 trains per day
  - *What are the negative health effects on people who live within 100' of a LRT line along the Kenilworth trail?* M5
  - *What are the results of the environmental justice study for the entire SWLRT line?*
  - *What is the data on single family homes in an established neighborhood with homes that typically sell at prices well above the median home value in Minnesota?* M2
  - *How will property values be impacted by an LRT line?* M2
  - *What are the positive impacts of the SWLRT line along the Kenilworth trail?*
  - *Why would the people along and around the Kenilworth trail use the LRT?* P9
  - *Given there is already traffic congestion during rush hour on Cedar Lake Road, how will traffic be handled if there is a train every 3.5 minutes during peak time and the train is built at grade.* E6
  - *What is the plan to prevent random cars from parking on neighborhood* P4

streets near the rail stations?

- *If Single family dwelling property values drop along the SWLRT, what will be done to help these people who are adversely affected by the existence of the rail line.*

I1

M2

Tunneling option:

- The length of the tunnel that links the two terminals at the MSP airport is 7,400' at a depth of 70'. Per the attached article there was no disruption of at grade activities during construction. The cost to build the tunnel was $120M or $16,216 per foot.
http://www.hatchmott.com/projects/twin-light-rail-transit-tunnel-underground-lindbergh-terminal-station-minneapolis-st-paul
  - Using inflation at 3% compounded annually since 2005 or 8 years the cost in today's dollars to build a "like" tunnel would be $152M. $152M/7400' = $20,540 per foot.
- The distance between the West Lake Street Station and the 21st Street Station is 1.08 miles or 5,702 feet.
  - Using the distance of 5,702' X $20,540 per foot = $117M to construct a tunnel 70' below grade from West Lake Street Station to 21st street station.
- Benefits of the tunnel:
  - No disruption of at grade activities on the roads, bike path or walking paths.
  - No re-routing of local streets or disruption, specifically Burnham Blvd. or at Cedar Lake Parkway.
  - Preserves the quiet natural neighborhood for decades and beyond.
  - No eminent domain required to accommodate the LRT at grade or with Bridge option at Cedar Lake Parkway.
  - no mitigation for the single family homes would be required sound or sight,
  - Co-location of freight rail saves $52M to re-route through St. Louis Park (based on a $48M 2009 estimate with 3% inflation).
  - There is no security check point between the Lindberg and Humphrey terminals, anyone can get on and ride the LRT between terminals.
  - The overall cost with the tunnel option along the Kenilworth trail would be a 3% increase over the total budget of $1.25B up to 1.287B.
- *Why has this option not been considered? It solves a lot of concerns of neighbors who live along the Kenilworth section of the SWLRT.*

E6

Sincerely,

Christopher B. Johnson
2838 Benton Blvd.
Minneapolis, MN 55416
email: coachpub@gmail.com
612-928-9292

Anna Kabe
<annakabe@gmail.com>
12/31/2012 12:23 AM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject Southwest Corridor comment

To whom it may concern-My husband and I live about a block from the future Southwest corridor line in Hopkins, just west of Blake Road. Any of the options would pass closely to our home thus we have no particular opinion on which option is chosen and believe the Commissioners will make the correct decision based on ridership and costs. However, there are several adjustments that we request related to the proposed light rail line. One of the main attractions to our home that we bought in 2009 was the bike trail that runs from Lake Calhoun to Eden Prairie. This is a great asset for the community. Thus, we hope that the bike trail can stay in its present state with the addition of the light rail. Also, we live near the 43 Hoops Basketball Academy. The building that it occupies is owned by the Metropolitan Council and is the possible site of a light rail train station. This business has been a great asset to the community as many community events have been held there along with providing summer hot lunches to young people in a neighborhood that this is needed in. Also, having the train station on 2nd street would lead to more traffic issues and make it less accessible to riders. A train station on the other side of the tracks from 43 Hoops would make more sense as it would enter from Excelsior Blvd, a much busier and more accessible road. We hope the council considers these issues when planning the new light rail. Thank you for your consideration.

P9

I2

Catherine M. Walker/PW/Hennepin
12/31/2012 07:51 AM

To SWcorridor@co.hennepin.mn.us
cc Adele C Hall/PW/Hennepin@Hennepin
bcc
Subject Fw: NMCWD comments on SW LRT DEIS

Katie Walker
Senior Administrative Manager
Southwest LRT Community Works Manager
Hennepin County
Housing, Community Works & Transit

NEW ADDRESS: 701 Building Fourth Avenue South – Suite 400 | Minneapolis, MN 55415
612.385-5655

----- Forwarded by Catherine M. Walker/PW/Hennepin on 12/31/2012 07:51 AM -----

From: "Kevin Bigalke" <kbigalke@ninemilecreek.org>
To: <Katie.Walker@co.hennepin.mn.us>
Date: 12/31/2012 07:44 AM
Subject: NMCWD comments on SW LRT DEIS

Katie,
Attached are the comments of the Nine Mile Creek Watershed District regarding the Southwest Transitway Draft EIS.
I have placed the original letter in the mail.

Please let me know if you have any questions.

Sincerely,

Kevin D. Bigalke
Administrator
Nine Mile Creek Watershed District
7710 Computer Avenue, Suite 135
Edina, MN 55435
Phone: (952) 835-2078
Fax: (952) 835-2079
E-mail: kbigalke@ninemilecreek.org

NMCWD comments on SW LRT DEIS 12-31-2012.pdf

9 Mile Creek
WATERSHED DISTRICT
District Office: Edina Business Center • 7710 Computer Avenue • Suite 135 • Edina, MN 55435
Ph. 952-835-2078 Fax 952-835-2079
Web Site: www.ninemilecreek.org

December 31, 2012

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

Dear Ms. Walker:

On behalf of the Nine Mile Creek Watershed District Board of Managers (NMCWD), I would like to thank you for the opportunity to review and comment on the Southwest Transitway Draft Environmental Impact Statement (DEIS). The NMCWD commends you on your efforts to develop a comprehensive DEIS. The NMCWD offers the following comments for your consideration.

1. The NMCWD is a local unit of government that has our own rules and regulatory program. This is referenced inconsistently throughout the DEIS. Please make sure that NMCWD is listed as a local regulatory agency throughout the whole DEIS. U L3

2. The NMCWD rules and regulatory program includes rules pertaining to sediment/erosion control, storm water management, floodplain management, wetland management, and water body crossings, and appropriations of public surface waters. Please make sure to acknowledge these the NMCWD regulatory requirements in the Final EIS and address all applicable rules during the design phase of the project. The NMCWD rules can be found on the NMCWD website at www.ninemilecreek.org. N5, N6, N7

3. Table 2.3-4 lists the Park and Ride Stations Parking Spaces. The development of the Park & Ride stations are not considered linear projects. All impervious surface disturbances and increases will fall under all applicable NMCWD rules. N6 I1

4. Section 2.3.3.6 – Traction Power Stations. The Traction Power Stations should be included in the project's overall impervious surface calculations. These stations will need to comply with all applicable NMCWD rules. U N6

Board of Managers
LuAnn Tolliver - Minnetonka
Corrine Lynch - Eden Prairie
Jodi Peterson - Bloomington
Steve Kloiber - Edina
Geoffrey Nash - Edina

5. Section 2.3.3.9 – Operations and Maintenance Facilities. All OMFs will need to comply with all applicable NMCWD rules. They are not considered linear projects. N6

6. Chapter 3 discusses impacts to parks and open spaces but is largely missing any consideration of impacts on wetlands, both those in parks and open spaces, and those not in park lands. The Final EIS should address impacts to wetlands and other water resources in this chapter. N5

7. Chapter 3 does not discuss the impacts of land use changes on water quality and storm water runoff. What are the impacts of the land use changes on water quality and storm water runoff? This should be address in the Final EIS. N6

8. Chapter 3 needs to include more discussion on Best Management Practices to mitigate water quality and storm water impacts. N6

9. Chapter 3 notes that there are no impacts on areas developed for recreational purposes. While the recreational uses may not be impacted, there may be impacts on the water resources and habitat in recreational lands. This section should evaluate the impacts on the water resources and habitat present in recreational areas. N6, N8

10. Section 4.1 discusses the suitability of soils in the project corridor. This section should also include information on the suitability and capacity of soils to meet NMCWD storm water management and retention requirements. N6

11. Section 4.1.1 discusses the need for dewater and water appropriations permits. NMCWD requires a permit for water appropriations up to 10,000 gallons per day and up to 1,000,000 per year of water for a nonessential use from a public water basin or wetland within the District that is less than 500 acres in surface size or a protected watercourse that has a drainage area of less than 50 square miles. This should be included in this section. N5

12. Figure 4.1-8 shows areas of likely dewatering. Birch Island Lake in Eden Prairie is just outside the potential impact area. The NMCWD recently completed a project to restore the water levels of Birch Island Lake and the lake is still susceptible to groundwater impacts. The potential impact area should be expanded to include Birch Island Lake. N4

13. Section 4.1.61 discussed the need for further geotechnical data collection. Any additional geotechnical data collection and analysis should include an analysis for contamination to determine suitability for storm water retention and treatment. N4

14. Table 4.2-1 shows the regulatory and permit entities. NMCWD is the Local Government Unit (LGU) for the Minnesota Wetland Conservation Act (WCA) in the cities of Eden Prairie, Edina, and Hopkins but the table does not list this. Please include NMCWD as the WCA LGU for these cities. U

15. Section 4.2.2.2 discusses the need for wetland delineations. All wetland delineations will need to include a Minnesota Rapid Assessment Method (MNRAM) assessment to determine wetland function and value for all wetlands in the vicinity of the project corridor. N5

16. Please review the NMCWD Wetland Rule for the wetland mitigation and wetland buffer requirements of the NMCWD. The NMCWD requires wetland buffers based on the MNRAM classification on all down gradient wetlands. The NMCWD also has additional wetland mitigation requirements beyond those of WCA. N5

17. Section 4.2.3.4 – Floodplains. This section describes impacts to the Nine Mile Creek floodplain. NMCWD rules do not allow any fill or impacts to the Nine Mile Creek floodplain without compensatory mitigation. See NMCWD Rule 2. N7

18. Section 4.2.3.5 – Wetlands and Public Waters. NMCWD regulates impacts to wetlands beyond the MN WCA. Please see NMCWD Rule 3. NMCWD also regulates water body crossings. Please see NMCWD Rule 6. N5

19. Section 4.2.5 – Mitigation. Floodplain impacts will need to be determined prior to permitting and construction. Floodplain impacts should be evaluated and mitigation needs determined during the design phase of the project prior to submitting to the NMCWD for permit review. N7

20. Nine Mile Creek is impaired for chlorides and is listed on the State of Minnesota's Impaired Waters list. NMCWD has completed a TMDL for the chloride impairment. The DEIS does not mention the chloride impairment. How will winter maintenance of the rail line, transit stations, park and ride stations, and Operations & Maintenance Facilities be performed to minimize additional chloride impacts? The DEIS should address the chloride impairment. N6

The NMCWD thanks you for the opportunity to review and comments on the Southwest Transitway Draft Environmental Impact Statement. We look forward to working with you as the Final Environmental Impact Statement is developed and as you progress toward the permitting process for this project. Please contact the NMCWD office at (952) 835-2078 with any questions you may have regarding our comments on the DEIS or on our rules. L3

Sincerely,

Kevin D. Bigalke
District Administrator

Kevin Locke
<klocke@stlouispark.org>
12/31/2012 08:54 AM

To "'swcorridor@co.hennepin.mn.us'" <swcorridor@co.hennepin.mn.us>
cc "Hahne, Lynne (Lynne.Hahne@metc.state.mn.us)" <Lynne.Hahne@metc.state.mn.us>, Adele Hall-HC <adele.hall@co.hennepin.mn.us>
bcc
Subject Can you confirm that the City of St. Louis Park's comments on the SW DEIS have been received?

Wanted to make sure that our comments submitted last week were indeed received.

Thanks!

Ps: fYI - below is the link to the city's comments on our city webpage.

http://www.stlouispark.org/webfiles/file/community-dev/sw-deis-comments-documents-123112.pdf

Kevin Locke
Community Development Director
City of St. Louis Park Minnesota
952-924-2580

See Comment #487 for Theme Delineations

Derek
<dllindquist@gmail.com>
12/31/2012 09:06 AM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc Rachel <rfrank23@gmail.com>
bcc
Subject St. Louis Park residents oppose expansion of Southwest Transit Line

C

SWLRT - DEIS;

I am writing to you today to express my disapproval of relocating the fright trains through the St. Louis Park community.

As a relatively new resident in SLP, let me begin by explaining why my wife and I chose this community to call home. First and probably most important, we love the neighborhood feel of SLP. It has always felt like a small, quaint neighborhood with all the added bonuses of being near Minneapolis. By relocating your freight trains through our neighborhood you will be destroying one of the main attractions for residents: our peace. Secondly, the properties in SLP, and Lennox neighborhood specifically, have been able to maintain a somewhat reasonable market value. As we all know, the housing market is not strong throughout the country, but due to several key factors, example; location, limited availability, and high demand, our little city of St. Louis Park continues to withstand the continuing downward spiral of the housing market. By expanding the train tracks you will not only be taking away our peace, you'll be crushing our property values as well. A financial blow that most residents simply could not withstand. Thirdly, we really value our safety. Safety in our streets, around our schools and safety in our community. Adding more bigger and faster trains to a train system that is already dangerously close to hundreds of homes, not to mention St. Louis Park High School, just isn't a good idea. Finally let me finish with one last reason we do not favor the expansion of the train system. Noise. The residents of SLP simply do not need more noise. Setting the existing train noise aside, we already tolerate the onslaught of airplanes flying over our homes on what seems to be an international highway for the MSP airport. Adding more freight trains to an already busy track system is going to exponentially increase the noise level throughout our peacefully quiet SLP neighborhood.

Thank you and please reconsider your proposal of moving your freight trains through our little community.

St. Louis Park Residents for over three years,
Derek and Rachel Lindquist
3232 Jersey Ave S.

Sent from my iPad

Rachel Seurer
<rseurer@lvcinc.com>
12/31/2012 09:21 AM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject Community impact of SWLRT station

I2

I would like to again state that placing a station at the current location of 43 Hoops (Hopkins at 2nd Street, just West of Blake Road) would remove a much needed (and much appreciated!) community asset. We understand that there is an alternative location for this station site, which would be South of the rail corridor, and it is overwhelmingly agreed upon by our near neighbors and others that this would be a much more positive location for the station as it would minimize negative impact on the immediate neighborhood, surrounding community and City of Hopkins in general.

The Light Rail itself is a much needed and long overdue asset to the Metro area, and although it will bring about multiple changes in multiple areas, we are all very concerned with keeping these changes moving toward the betterment of both our local community and of those around us. The opening of 43 Hoops has been a very positive change in our community – please don't force them out in order to replace one positive asset with another, especially when there is a possibility of keeping both.

Thank you for your time and attention.

Sincerely,

Rachel Seurer

Blake Road Corridor resident, homeowner and parent.

"Lundy, James (MDH)"
<james.lundy@state.mn.us>
12/31/2012 09:52 AM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject MDH Source Water Protection comments to Southwest Transitway DEIS

I am attaching our comments regarding the above Draft EIS, and a signed hard copy will follow by US mail. Please contact me if there are any questions.

See Comment #776 for Theme Delineations

Thank you for the opportunity to comment.

Jim Lundy, Hydrologist
Source Water Protection
Drinking Water Protection
Minnesota Department of Health
651-201-4649

December 31, 2012

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

Dear Ms. Walker:

Subject: Comments on Southwest Transitway Draft Environmental Impact Statement

I am writing to comment on the Southwest Transitway Draft Environmental Impact Statement on behalf of the Drinking Water Protection Section of the Minnesota Department of Health (MDH). The Drinking Water Protection Section includes wellhead protection planning, a preventive program designed to safeguard public drinking water supplies.

The project appears to be in the planning stages, and several portions of the route may be modified. The provided maps are of limited resolution, but it appears that the proposed project area may overlap several low, moderate, and high vulnerability portions of the following Drinking Water Supply Management Areas (DWSMAs):

- St. Louis Park (moderate and high vulnerability)
- Edina (low, moderate, and high vulnerability)
- Hopkins (low and moderate vulnerability)
- Minnetonka (low vulnerability)
- Eden Prairie (moderate vulnerability)
- Chanhassen (low vulnerability)

Electronic files containing the geometry (ArcMap geographic information system shapefiles) of these DWSMAs are available at the following web page on the MDH website:
http://www.health.state.mn.us/divs/eh/water/swp/maps/index.htm

In addition, the proposed project area also appears to traverse or approach Emergency Response Areas (ERAs) for the following community public drinking water supply wells:

- Edina (12, 13)
- Minnetonka (11, 11A, 13, 13A)
- Eden Prairie (3, 4, 5, 6, 7, 8, 9, 10)

Because the project site overlaps the above-listed DWSMAs and ERAs, carefully plan project activities to avoid unnecessary contamination of the drinking water supplies. In particular the submittal describes temporary and permanent dewatering that may become necessary, and this practice could negatively affect public drinking water supplies if not planned properly.

Because infiltration of stormwater in vulnerable settings has the potential to affect drinking water quality, please consider the enclosure "Source Water Protection Issues Related to Stormwater" as you finalize your plans.

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

Sincerely,

James R. Lundy, Hydrologist
Environmental Health Division
P.O. Box 64975
St. Paul, Minnesota 55164-0975
651/201-4649

JRL:
Enclosure: Brochure - Source Water Protection Issues Related to Stormwater
cc: Joy Loughry, MDH Hydrologist, Source Water Protection Unit, St. Paul Office
Amal Djerrari, MDH Hydrologist, Source Water Protection Unit, St. Paul Office
Chad Kolstad, MDH Engineer, Administrative Unit, St. Paul Office
Mike Baker, MDH Information Technology, Source Water Protection Unit, St. Paul Office

Jane Cracraft
<jfcracraft@yahoo.com>

12/31/2012 10:07 AM

Please respond to
Jane Cracraft
<jfcracraft@yahoo.com>

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject Southwest Light Rail Transit (SWLRT) project

C

Hello,

Please don't re-route freight via the proposed route. It will ruin the neighborhood, and I've heard that SEH says there are viable alternatives.

I am concerned about the proposed increase of heavy freight rail traffic on the north/south MN&S spur and the BNSF mainline in St. Louis Park. I understand that the MN&S spur was not intended and not designed to handle freight rail traffic of the density and frequency proposed by the Hennepin County Railroad Authority. We support the creation of light rail in our community.

Thanks,

Jane Cracraft

Gary Orcutt
<Gary.Orcutt@fwbt.com>
12/31/2012 10:14 AM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc
bcc
Subject We would like to point out a few possible issues with the light rail locations in Eden Prairie!

Hello,

I am a Vice President with First Western Bank & Trust at 100 Prairie Center Drive in Eden Prairie, at the intersection of Fly Cloud Drive and Valley View Road. The Southwest Corridor light rail line is to pass right in front of and next to our bank building before crossing Valley View Road. We have several issues which include the following; M2

1. If the crossing is an at grade crossing it will block traffic on a very busy intersection during both rush hours. It is hard to get through this intersection currently closing it for trains every few minutes will increase traffic congestion. P4
2. If there is a bridge built over Valley View Road it will block the view of our building from our customers and people looking to find our building. Our building is our most visible point of advertising, and adding signage after the bridge is built it will be difficult to achieve a signage placement that is as highly visible. N2
3. Either option will take out numerous trees and decrease the aesthetics of the area and of our bank building.
4. The close nature of the building to the future tracks will probably cause some movement in the building when trains pass that close to the building every few minutes which could cause structural damage. O5, O6

These are our most obvious issues currently there are probably several more issues that will probably arise as the plans and construction come together.

Sincerely,

Gary Orcutt
Vice President
First Western Bank & Trust
100 Prairie Center Drive
Eden Prairie, MN 55344

gary.orcutt@fwbt.com
Phone 952-516-7310
Fax 952-516-7301

http://www.fwbt.com Eden Prairie location

http://www.bankfirstwestern.com Minot ND locations

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Jutta Ellermann
<eller001@umn.edu>
12/31/2012 10:30 AM

To swcorridor@co.hennepin.mn.us
cc Jutta Ellermann <eller001@umn.edu>
bcc
Subject COMMENTS ON LRT DEIS from Dr. Jutta Ellermann and Dr. Kamil Ugurbil

Please find attached our comments.

Dr. Kamil Ugurbil and Dr. Jutta Ellermann
2812 Benton Blvd, Minneapolis, MN 55416, phone 612-232-3020

Minneapolis, 12/31/2012

Dr. Jutta Ellermann
Dr. Kamil Ugurbil

COMMENTS ON Southwest Transitway Chapter 4 Draft Environmental Impact Statement Environmental Effects /October 2012

A. COMMENTS AND CONCERNS ON OVERALL IMPACT ON LAND USE CENTERED ABOUT THE KENILWORTH LAGOON ABOUT A MILE TO THE NORTH AND SOUTH

1. The land centered about the Kenilworth Lagoon has been set aside for specific uses and therefore is eligible for special protection (National Register of Historic Places). This is in the constitution. This is one of the most amazing historic visions put into law, and is what keeps this country so extraordinarily beautiful. Whereas public transportation is an important task to be solved in this century, and I am in favor of it, it cannot done in a way that overrides the historic protection of such a national treasure. There is, and there has to be the understanding, that those rules are there for us, for our children, for the future. E2
2. In other words, our generation cannot just destroy forever, such an area preserved up until now and used by millions strolling, running, biking, canoeing etc. for a short sided, "cheapest" solution for a transportation problem. The City Lakes are the "Central Park of Minneapolis" and in my opinion even much more beautiful and much more essential to the lifestyle or city affords and the desirability of living in the city as opposed to in suburbs surrounding it. Coming with your canoe from Lake of the Isles leaving the skyline of Minneapolis behind and experiencing the quite tunnel of greenery of the Lagoon opening up again to the lightness of Cedar Lake far removed from the buzzing of everyday life is magical and it is here for all of us and for this cities long term viability. E2 E0
3. The scope of the impact of the LRT on this most sensitive stretch has not been realized and is not at all appropriately addressed in the DEIS and the respective planning process. Therefore, I would like to suggest an official meeting of all authorities and citizen E0

representatives involved at this Kenilworth lagoon area to experience first hand what is at stake here, rather than just read it in reports and comments on reports like this one.

COMMENTS:

a) While the DEIS recognizes that "portions of the land between Cedar Lake and Lake of the Isles are very high sensitivity," the DEIS puts no particular focus on this area, i.e. the Kenilworth Corridor, in its evaluation of the impact of the proposed LRT solution or possible measures that can be undertaken to mitigate the environmentally detrimental consequences. E2

b) Instead, the environmental assessment is spread more-or-less evenly across the 15 miles of the proposed transit way (the "study area"). An exception is the Freight Rail Relocation Segment which receives much attention in terms of its potential impact on residents in St. Louis Park. This is not to fault an emphasis on the relocation analysis. It is simply to draw a contrast between the different levels of data gathering and technical analysis.

c) The entire study area is viewed as "dominated by urban land use." This perspective comes across particularly clearly for the Kenilworth Corridor, in direct contrast with the perspective of the Minneapolis Park and Recreation Board. The MPRB, for example, views the Kenilworth Regional Trail as an area focused on "serenity, habitat restoration, minimal development and passive recreation." Nor is the urban-land-use perspective consistent with the fact that the DEIS identified fourteen federal or state-listed species and native plants within one mile of the proposed transit way. Ten of the species and native plants are found in Segment A of the transit way (primarily the Kenilworth Corridor), which is significantly more than is found in any other segment. No adverse environmental impact is noted with respect to any of the ten species. Little-to-no analysis is offered to support this conclusion. M1 E10

d) Few measures are proposed to mitigate the potential adverse environmental impacts of the project, and nearly none that are of a specific nature. For example, the DEIS notes that "[t]he impact of replacing an

existing bridge over the channel that connects Cedar Lake and Kenilworth Lagoon could be substantial because of sensitive receptors traveling the lagoon." However, no mitigation measures are set out in the DEIS. Instead, the bridge design, bank treatment and aesthetics for the new bridge are to be addressed later, after the Final Environmental Impact Statement (FEIS) has been approved. N2

e) The DEIS sees the habitat as typically of low quality, and states that the native habitats are mostly concentrated in areas other than the Kenilworth Corridor. Only 2.5% of Segment A is said to have native habitat, something that strikes me as an understatement. The DEIS does note, however, that increased habitat fragmentation "could be expected from the construction of required safety/security barriers to separate the light rail tracks from adjacent bicycle/pedestrian trails," which could be mitigated "through the use of wildlife underpasses." This is one of the few specific mitigation measures proposed in the EIS, and seems to run counter to the determination that there is little to mitigate. E10

f) The DEIS is required to analyze the cumulative impact of reasonably foreseeable future developments. This is also true for the potential indirect effects that may occur in the future. For example, the stated intent of LRT stations is to precipitate development on nearby property. The environmental effects of that future development, when added to the impact of the LRT, may have a significant environmental impact. However, no analysis of the potential cumulative or indirect effects of the Southwest LRT within the Kenilworth Corridor was conducted. Instead, it is simply stated that those effects could be controlled by existing regulations. N12

B. COMMENTS ON SPECIFIC ISSUES:

4.7.3.4 Projected Noise Levels from page 4-84

Table 4.7-2 in the DEIS summarizes the sound exposure levels used in Southwest Transitway detailed noise analysis. Noise Levels range from 84 dBA (light rail vehicle Pass-by on embedded track) to 106 (stationary

crossing signal) and 114 dBA for light rail curve squeal. This is in stark contrast to the actual ambient noise levels, which were measured as low as 48 dBA/ 51 dBA for Segment 1. FTA GUIDELINES ("Transit Noise and vibration Impact assessment (FTA 2006) defines for an existing noise level of about 55 db in increase of 4-7 db = moderate impact and above 7 dB = severe impact. The increase, however, would be 40 dB from and existing level of 55-56 dB to a projected noise level ranging from 81-116 dB.

O1, O5

40 dB gain change should give about the ratio of 8 (eight times) for sensed volume and loudness, and a 40 dB change gives the ratio of 200 for calculated sound power and acoustic intensity. The data given, underline the SEVERITY of the noise impact.

a) There is growing scientific evidence, that chronic noise pollution has severe health effects, specifically on the cardiovascular system (1) and cognition in children (2,3). A recent study by the World Health Organization summarizes the available study results, mostly form Europe in a meta-analysis (4). These results reveal that the Minnesota regulations for land use type 1 as the park lands have to be classified with day time (7.00 am - 10.00 pm) upper limits of 60 dB and night time 50 dB are to be considered save. However, values imposed by the Light Rail of more than 80 dB are a significant health risk (. Note, that motor boats are prohibited on the city lakes.

1. Babisch, W., Cardiovascular effects of noise. Noise Health, 2011. 13(52): p.201-4.
2. Stansfeld, S.A., et al., Aircraft and road traffic noise and children's cognition and health: a cross-national study. Lancet, 2005. 365(9475): p. 1942-9.
3. Clark, C., et al., Exposure-effect relations between aircraft and road traffic noise exposure at school and reading comprehension: the RANCH project. Am J Epidemiol, 2006. 163(1): p. 27-37.
4. In March 2011, a joint WHO-JRC "Report: Burden of disease from environmental noise. Quantification of healthy life years lost in Europe", reviewing the evidence of health effects consequent to noise exposure, estimating the burden of disease in western European countries, and providing guidance on how best to quantify risks from environmental

noise.

b) FTA noise impact criteria are based on land use and existing noise levels. The Federal Transportation Agency (FTA) has three land-use noise categories: Category 1 is for land where quiet is an essential element of its use; Category 2 are residences and buildings where people normally sleep; Category 3 are institutional land uses such as schools, libraries and churches. ***The park land to the west of the Kenilworth Corridor is shown as a Category 3 land use in the DEIS. The residential properties to the east and west of the Corridor are shown as Category 2. This categorization is absolutely false and cannot be justified. It is at all not clear how it is or it can be justified. Appropriately, the Minneapolis Park and Recreation Board (MPRB) has objected to the characterization of its park land as Category 3, believing instead that it is Category 1.***

O1, O5

c) Low ambient noise levels cause the impact threshold to be lower. For example, if the existing noise level is 50 dB, then an increase to 55 dB is a severe impact according to FTA standards. If the existing noise level is 55 dB, then the noise level has to increase to 62 dB before the impact is severe. ***It does not appear as though any direct measurement of existing noise level was taken within the Kenilworth Corridor. The closest location appears to be Kenilworth Place and Upton Avenue South, which is identified as being "representative of noise-sensitive land use in the Kenwood Neighborhood, away from major thoroughfares." This claim is not justifiable and cannot be justified***.

d) Within Segment A, the DEIS estimates that there are 73 moderate noise impacts and 183 severe impacts. It states that "[m]any of the impacts are due to low existing ambient noise levels combined with proximity of residential neighborhoods to the alignment and high speeds of operation." Other impacts were associated with the warning signal use at the 21st Street station coupled with low ambient noise levels.

e) The DEIS states that noise levels that result in a severe impact presents a compelling need for mitigation. ***However, the DEIS does not recommend any specific mitigation measures for the Kenilworth Corridor and does not evaluate if the mitigation measures possible for a on-grade LRT system***

can accomplish the necessary mitigation. In fact, the only specific recommendation in the DEIS calls for the use of Quiet Zones and this is recommended only for the freight rail relocation segment in St. Louis Park. O1, O5

f) The DEIS identifies 247 Category 2 vibration-sensitive land uses in Segment A, which are mostly single-family and multifamily residences. The DEIS assessment predicts that there will be 124 potential vibration impacts from the LRT caused by geological conditions (west of Van White station)and increased train speeds. O1, O5

g) Potential mitigation measures listed in the DEIS include special trackwork, vehicle specifications, ballast masts and floating slabs***. However, the need for and selection of specific measures is deferred until the completion of a detailed vibration analysis*** which "will be conducted during the FEIS in coordination with Preliminary Engineering." O1, O5

City Proposed overpass bridge:

For the reasons listed below, the "adequacy" of the analysis and conclusions in the DEIS relating to the proposed LRT overpass is highly questionable and subject to challenge.

a) The DEIS acknowledges that the proposed LRT bridge over Cedar Lake Parkway (CLP) "would have a substantial [visual] impact on this historic landscape." A similar long-term architectural impact is acknowledged. However, further consideration of these impacts is deferred to the "Section 106 consultation process", which likely means to occur after the approval of the FEIS. E8 S2

b) Separate from these acknowledgements, Cedar Lake Parkway (CLP) is a part of the Grand Rounds Historic District, which is eligible for the National Register of Historic Properties(NLRP). S3 S4

c) Because of Cedar Lake Parkway's eligibility for the NRHP and because the SW LRT project has and will receive federal funding, the DEIS identifies

Cedar Lake Parkway as a "property" under Section 4(f) of the U.S. Department of Transportation Act of 1966. Section 4(f) is intended to prevent the conversion of historic sites, parks, recreation areas and wildlife and waterfowl refuges to transportation uses, except under certain limited circumstances. For purposes of Section 4(f), the prohibition applies whenever the protected property is directly incorporated into a project or the project is so proximate to a protected property that it results in an impact that causes substantial impairment to the property's use or enjoyment (so-called "constructive use"). Substantial impairment occurs when the protected attributes of the property are substantially diminished. Exceptions to the prohibition arise when there is no feasible and prudent alternative to the use of the property and the action included all possible planning to minimize harm to the property resulting from the use. ***This Requirement has not been fulfilled in the DEIS document.***

S3

d) Instead, for an unstated reason(s), the DEIS concludes that the proposed LRT overpass is neither a direct or constructive use of the historic attributes of Cedar Lake Parkway. Therefore, the DEIS finds that there is no Section 4(f) prohibition applicable to the construction of the bridge. ***This is clearly unsupportable and unjustified. The DEIS contains no analysis of the proposed bridge's proximity to park property as an independent basis for finding a constructive use under Section 4(f).***

E8

S3

e) Further, the DEIS does not make any assessment of the potential noise impact of elevating the transit way nor the visual intrusion of the elevated transit way to nearby residents or to bike/pedestrian trail users***. However, the noise impact, will certainly be more severe at a given distance from the in an elevated track and will also extend further.***

f) ***Finally, the DEIS has no analysis of potential measures to mitigate the visual and noise impact caused by trains traveling across the proposed overpass nor any assessment of the impact of alternatively tunneling the transit way underneath the Parkway.*** While the MPRB did conduct a preliminary assessment of a trenched LRT underpass, no reference was made to a below grade crossing in the DEIS.

E4

21st Street Station:

a) The DEIS identifies the 21st Station as a "park and ride" site with parking for 100 vehicles and 1000 daily LRT boardings. ***No assessment of the traffic flow associated with parking at the site, nor the site plan showing the location of the parking lot is provided.*** I2

b) The MPRB believes that the western most track is on park land adjacent the proposed station. ***If this is true, the DEIS needs to conduct a Section 4(f) analysis of the use of park land. No such analysis has been undertaken. The DEIS does state that the land ownership adjacent the station is complicated and that additional survey work may be necessary***. N1 S2

c) Separate from the track location, the proposed station and associated parking lot could constitute a constructive use of the adjacent park land. ***The DEIS does not address this issues specifically. Instead, the DEIS makes a general statement that there are no constructive uses of Section 4(f) protected property within the Kenilworth Corridor.*** I2

d) ***No analysis was conducted as to whether the proposed station and parking lot would comply with the requirements of the City's Shoreland Overlay District, particularly those governing storm-water runoff and point and non-point source discharges of pollutants***. I2

e)The DEIS acknowledges that the implementation of LRT service and stations along Segment A (mostly the Kenilworth Corridor) "would likely result in some land use change surrounding the stations…" ***No assessment was done of the cumulative impact of those changes nor was any mitigation proposed to protect the natural character of the area surrounding the proposed station.*** The City/HCRRA Design Team recommended only minimum infrastructure at the 21st Street station with no development at all on adjacent property. This recommendation is not included in the DEIS as a mitigation measure. M1 N12

C. SUGGESTED SOLUTIONS

Specific Land Use Preservation, Noise Mitigation etc. using a tunneling option:

There is a specific advantage Minneapolis has because of it's geological conditions, whereby the respective layer for the tunnel contains soft material, which can be excavated with in a very economical way. This has been done at the airport already. The length of the tunnel that links the two terminals at the MSP airport is 7,400' at a depth of 70'. Per the attached article there was no disruption of at grade activities during construction. The cost to build the tunnel was $120M or $16,216 per foot. http://www.hatchmott.com/projects/twin-light-rail-transit-tunnel-underground-lindbergh-terminal-stationminneapolis-st-paul.

The distance between the West Lake Street Station and the 21st Street Station is 1.08 miles or 5,702 feet. Using the distance of 5,702' X $20,540 per foot = $117M (adjusted for inflation) to construct a tunnel 70' below grade from West Lake Street Station to 21st street station.

- **Benefits of the tunnel:**
    - No disruption of at grade activities on the roads, bike path or walking paths.
    - No re-routing of local streets or disruption, specifically Burnham Blvd. or at Cedar Lake Parkway.
    - Preserves the quiet natural neighborhood for decades and beyond as it is defined by the .
    - No eminent domain required to accommodate the LRT at grade or with Bridge option at Cedar Lake Parkway.
    - no mitigation for the single family homes would be required sound or sight,
    - There is no security check point between the Lindberg and Humphrey terminals, anyone can get on and ride the LRT between terminals.
    - The overall cost with the tunnel option along the Kenilworth trail would be a 3% increase over the total budget of $1.25B up to 1.287B.

- ***This option needs to be seriously considered.***

E0

THERE HAS TO BE AN ANALYSIS OF THIS OPTION, WHICH IS A FEASIBLE OPTION, ANS SPECIFICALLY FEASIBLE IN AN ECONOMICAL WAY IN MINNEAPOLIS AREA due to its unique geology.

TUNNELING A SHORT STRETCH WOULD SOLEVE ALL OF THE AFORE-LISTED PROBLEMS. IT REPRESENTS A HISTORIC CHANCE, THAT ONCE AGAIN MINNESOTA CAN LEAD THE COUNTRY IN PUBLIC TRANSSPORTATION, WHICH IS ENVIRONMENTALLY AND ECONOMICALLY SENSIBLE. THIS APPROACH IS ALREADY A TRADITION IN OUR STATE: WE PRESERVED THE LAKES IN THE CITY, WE ARE THE LEADING BIKE CITY IN THE COUNTRY. THE CURRENET ON-GRADE LRT, IN ADDITION TO VIOATING MANY ORDINANCES AND ENVIRONMENTAL CONCERNS AND REQUIREMENTS AND OVERLOOKING, IS ALSO NOT COMPATIBLE WITH THIS TRADITION.

See Comment #628 for Theme Delineations

Comment #629

Jutta Ellermann
<eller001@umn.edu>
12/31/2012 10:36 AM

To swcorridor@co.hennepin.mn.us
cc Jutta Ellermann <eller001@tc.umn.edu>, Kâmil Uğurbil <kamil@cmrr.umn.edu>
bcc
Subject Fwd: COMMENTS ON LRT DEIS from Dr. Jutta Ellermann and Dr. Kamil Ugurbil

Minneapolis, 12/31/2012

Dr. Jutta Ellermann and Dr. Kamil Ugurbil, 2812 Benton Blvd, Minneapolis MN, 55416, phone:612-232-3020

COMMENTS ON Southwest Transitway Chapter 4 Draft Environmental Impact Statement Environmental Effects /October 2012

A. COMMENTS AND CONCERNS ON OVERALL IMPACT ON LAND USE CENTERED ABOUT THE KENILWORTH LAGOON ABOUT A MILE TO THE NORTH AND SOUTH

1. The land centered about the Kenilworth Lagoon has been set aside for specific uses and therefore is eligible for special protection (National Register of Historic Places). This is in the constitution. This is one of the most amazing historic visions put into law, and is what keeps this country so extraordinarily beautiful. Whereas public transportation is an important task to be solved in this century, and I am in favor of it, it cannot done in a way that overrides the historic protection of such a national treasure. There is, and there has to be the understanding, that those rules are there for us, for our children, for the future.

2. In other words, our generation cannot just destroy forever, such an area preserved up until now and used by millions strolling, running, biking,

canoeing etc. for a short sided, “cheapest” solution for a transportation problem. The City Lakes are the “Central Park of Minneapolis” and in my opinion even much more beautiful and much more essential to the lifestyle or city affords and the desirability of living in the city as opposed to in suburbs surrounding it. Coming with your canoe from Lake of the Isles leaving the skyline of Minneapolis behind and experiencing the quite tunnel of greenery of the Lagoon opening up again to the lightness of Cedar Lake far removed from the buzzing of everyday life is magical and it is here for all of us and for this cities long term viability.

3. The scope of the impact of the LRT on this most sensitive stretch has not been realized and is not at all appropriately addressed in the DEIS and the respective planning process. Therefore, I would like to suggest an official meeting of all authorities and citizen representatives involved at this Kenilworth lagoon area to experience first hand what is at stake here, rather than just read it in reports and comments on reports like this one.

COMMENTS:

a) While the DEIS recognizes that “portions of the land between Cedar Lake and Lake of the Isles are very high sensitivity,” the DEIS puts no particular focus on this area, i.e. the Kenilworth Corridor, in its evaluation of the impact of the proposed LRT solution or possible measures that can be undertaken to mitigate the environmentally detrimental consequences.

b) Instead, the environmental assessment is spread more-or-less evenly across the 15 miles of the proposed transit way (the “study area”). An exception is the Freight Rail Relocation Segment which receives much attention in terms of its potential impact on residents in St. Louis Park. This is not to fault an emphasis on the relocation analysis. It is simply to draw a contrast between the different levels of data gathering and technical analysis.

c) The entire study area is viewed as "dominated by urban land use." This perspective comes across particularly clearly for the Kenilworth Corridor, in direct contrast with the perspective of the Minneapolis Park and Recreation Board. The MPRB, for example, views the Kenilworth Regional Trail as an area focused on "serenity, habitat restoration, minimal development and passive recreation." Nor is the urban-land-use perspective consistent with the fact that the DEIS identified fourteen federal or state-listed species and native plants within one mile of the proposed transit way. Ten of the species and native plants are found in Segment A of the transit way (primarily the Kenilworth Corridor), which is significantly more than is found in any other segment. No adverse environmental impact is noted with respect to any of the ten species. Little-to-no analysis is offered to support this conclusion.

d) Few measures are proposed to mitigate the potential adverse environmental impacts of the project, and nearly none that are of a specific nature. For example, the DEIS notes that "[t]he impact of replacing an existing bridge over the channel that connects Cedar Lake and Kenilworth Lagoon could be substantial because of sensitive receptors traveling the lagoon." However, no mitigation measures are set out in the DEIS. Instead, the bridge design, bank treatment and aesthetics for the new bridge are to be addressed later, after the Final Environmental Impact Statement (FEIS) has been approved.

e) The DEIS sees the habitat as typically of low quality, and states that the native habitats are mostly concentrated in areas other than the Kenilworth Corridor. Only 2.5% of Segment A is said to have native habitat, something that strikes me as an understatement. The DEIS does note, however, that increased habitat fragmentation "could be expected from the construction of required safety/security barriers to separate the light rail tracks from adjacent bicycle/pedestrian trails," which could be mitigated "through the use of wildlife underpasses." This is one of the few specific mitigation measures proposed in the

EIS, and seems to run counter to the determination that there is little to mitigate.

f) The DEIS is required to analyze the cumulative impact of reasonably foreseeable future developments. This is also true for the potential indirect effects that may occur in the future. For example, the stated intent of LRT stations is to precipitate development on nearby property. The environmental effects of that future development, when added to the impact of the LRT, may have a significant environmental impact. However, no analysis of the potential cumulative or indirect effects of the Southwest LRT within the Kenilworth Corridor was conducted. Instead, it is simply stated that those effects could be controlled by existing regulations.

B. COMMENTS ON SPECIFIC ISSUES:

4.7.3.4 Projected Noise Levels from page 4-84

Table 4.7-2 in the DEIS summarizes the sound exposure levels used in Southwest Transitway detailed noise analysis. Noise Levels range from 84 dBA (light rail vehicle Pass-by on embedded track) to 106 (stationary crossing signal) and 114 dBA for light rail curve squeal. This is in stark contrast to the actual ambient noise levels, which were measured as low as 48 dBA/ 51 dBA for Segment 1. FTA GUIDELINES ("Transit Noise and vibration Impact assessment (FTA 2006) defines for an existing noise level of about 55 db in increase of 4-7 db = moderate impact and above 7 dB = severe impact. The increase, however, would be 40 dB from and existing level of 55-56 dB to a projected noise level ranging from 81-116 dB.

40 dB gain change should give about the ratio of 8 (eight times) for sensed volume and loudness, and a 40 dB change gives the ratio of 200 for calculated sound power and acoustic intensity. The data given, underline the SEVERITY of the noise impact.

a) There is growing scientific evidence, that chronic noise pollution has severe health effects, specifically on the cardiovascular system (1) and cognition in children (2,3). A recent study by the World Health Organization summarizes the available study results, mostly form Europe in a meta-analysis (4). These results reveal that the Minnesota regulations for land use type 1 as the park lands have to be classified with day time (7.00 am - 10.00 pm) upper limits of 60 dB and night time 50 dB are to be considered save. However, values imposed by the Light Rail of more than 80 dB are a significant health risk (. Note, that motor boats are prohibited on the city lakes.

1. Babisch, W., Cardiovascular effects of noise. Noise Health, 2011. 13(52): p.201-4.

2. Stansfeld, S.A., et al., Aircraft and road traffic noise and children's cognition and health: a cross-national study. Lancet, 2005. 365(9475): p. 1942-9.

3. Clark, C., et al., Exposure-effect relations between aircraft and road traffic noise exposure at school and reading comprehension: the RANCH project. Am J Epidemiol, 2006. 163(1): p. 27-37.

4. In March 2011, a joint WHO-JRC "Report: Burden of disease from environmental noise. Quantification of healthy life years lost in Europe", reviewing the evidence of health effects consequent to noise exposure, estimating the burden of disease in western European countries, and providing guidance on how best to quantify risks from environmental noise.

b) FTA noise impact criteria are based on land use and existing noise levels. The Federal Transportation Agency (FTA) has three land-use noise categories: Category 1 is for land where quiet is an essential element of its use; Category 2 are residences and buildings where people normally sleep; Category 3 are institutional land uses such as schools, libraries and churches. ***The park land to the west of the Kenilworth Corridor is shown as a Category 3 land use in the DEIS. The residential properties to the east and west of the Corridor are shown as Category 2. This categorization is absolutely false and cannot be justified. It is at all not clear how it is or it can be justified. Appropriately, the Minneapolis Park and Recreation Board (MPRB) has objected to the characterization of its park land as Category 3, believing instead that it is Category 1.***

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THERE HAS TO BE AN ANALYSIS OF THIS OPTION, WHICH IS A FEASIBLE OPTION, ANS SPECIFICALLY FEASIBLE IN AN ECONOMICAL WAY IN MINNEAPOLIS AREA due to its unique geology.

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Jeanette Colby
<jmcolby@earthlink.net>

12/31/2012 11:01 AM

Please respond to
Jeanette Colby
<jmcolby@earthlink.net>

To swcorridor@co.hennepin.mn.us

cc Lisa Goodman <Lisa.Goodman@ci.minneapolis.mn.us>, Frank Hornstein <rep.frank.hornstein@house.mn>, Scott Dibble <sen.scott.dibble@senate.mn>, Gail Dorfman

bcc

Subject KIAA Response to Southwest LRT DEIS

Dear Friends,

Attached please find the Kenwood Isles Area Association (KIAA) response to the Southwest LRT Draft Environmental Impact Statement (December 2012), with the following addenda:

1. KIAA's 2008 Resolution Supporting Light Rail in the Best Interests of the City of Minneapolis (September 2008);
2. KIAA, CIDNA, and West Calhoun's Joint Goals for SWLRT Design and Mitigation (February 2011);
3. KIAA Resolution Opposing Co-location of Both Freight and Llight Rail in the Kenilworth Corridor (June 2012).

We look forward to working with you.

Best regards,

Jeanette Colby
on behalf of the Kenwood Isles Area Association Board of Directors

Kenwood Isles Area Association

Response to the Southwest Transitway
Draft Environmental Impact Statement
December 31, 2012

Overview and Summary

Bordered by the Kenilworth Trail and Cedar Lake Park to the west and Lake of the Isles to the east, the Kenwood Isles Area Association (KIAA) represents 1,414 citizens in 589 housing units (2010). Kenwood residents value the neighborhood's historic homes, our proximity to downtown and Uptown, and especially Minneapolis' unique park, lake, and trail system.

More than a mile of the 15 miles proposed for the Southwest Transitway LRT 3A (LPA) line passes through Kenwood. Two of the proposed stops would be part of our neighborhood, 21st Street and Penn Avenue (shared with Bryn Mawr).

After the release of the Draft Environmental Impact Statement (DEIS) on October 12, 20012, KIAA developed a draft response. To solicit input on this response, KIAA posted the draft on our website. We then held board meetings on November 5th and December 3rd focused primarily on the DEIS response. Both meetings were well attended by 25-35 individuals. Our annual fall newsletter, mailed to every Kenwood household in mid-November, centered on the DEIS and requested input by e-mail for those who could not attend our meetings. This newsletter was also sent to all e-mail addresses on our neighborhood list. The KIAA response to the SWLRT DEIS reflects this comprehensive outreach.

The DEIS articulates a number of environmental impacts to our neighborhood, but overlooks several others. If the SWLRT is to be built, we are pleased to see that the DEIS supports relocation of freight rail from the Kenilworth Corridor and affirm all the reasons given in the document. Kenwood citizens are appalled by the prospect of the Kenilworth Corridor being the route of ***both*** the LRT ***and*** freight rail. D

We support excellent, context-sensitive design and mitigation for all communities affected by this project. Without the highest design standards and excellent mitigation, the environmental impacts in Segment A of the 3A (LPA) alignment – especially those related to noise, visual effects, and safety – will greatly affect the livability of our neighborhood, as well as adversely impact unique urban assets that benefit visitors from around the region (the Kenilworth Trail and Cedar Lake Park). Our concerns focus on the following:

1. Preserving our unique cultural and natural heritage

- We oppose land use changes beyond what is necessary for the LRT; existing park, trail and open green space should be preserved to the greatest extent possible. (3.1.5.1, page 3-34) E2
- There are important historic preservation issues related to the proposed SWLRT. KIAA looks forward to contributing as a consulting party to the Section 106 Review process. (3.4.5, Page 3-79) L1

2824

- KIAA asserts that a bridge over Cedar Lake Parkway would have unacceptable visual and noise impacts. We request a feasibility study of depressing, trenching, or tunneling the LRT. (3.6.3, page 3-115) O1
- A bridge over Cedar Lake Parkway likely violates Shoreland Overlay District zoning requirements. (3.6.3, page 3-115) E8
- Cedar Lake Park and the Kenilworth Trail provide important wildlife habitat and environmental learning opportunities for both children and adults. KIAA urges design measures that would benefit biota and habitat. (4.3.5, page 4-53) N8
- The area for the proposed SWLRT currently has very low ambient noise levels. KIAA insists on the highest standards of design to mitigate noise impacts. (4.7.3.5, 4-92) O1

2. Safeguarding the safety and enjoyment of park and trail users

- Cedar Lake Park and the Kenilworth bicycle and pedestrian trails are regional assets. With well over 600,000 discrete annual visits, they are heavily used by local residents and people from throughout the metro area. (3.6.2.4, page 3-104) E2 N1 N8
- KIAA expects the City of Minneapolis' Resolution 2010R-008 will be respected. It asserts that the current environmental quality, natural conditions, wildlife, urban forest, and the walking and biking paths must be preserved and protected.
- Substantial visual effects on trail users documented in the DEIS must be mitigated with well-designed landscape and hardscape elements, including land berms and evergreens. (3.6.3, page 3-115) E2 E4 N1 N2
- This DEIS does not consider impacts of light pollution on park and trail users. (3.6.5.3, page 3-123)
- KIAA insists that the Minneapolis and MPRB Police be consulted on security issues related to the impact of a proposed station at 21st Street related to Cedar Beach East (Hidden Beach). An inadequately managed station would increase opportunities for illegal behavior. (3.7.2, page 3-129) E9 R3
- KIAA requests that the Minneapolis Fire Department, MPRB Police, and emergency medical responders be consulted in development of safety and security plans, especially for Cedar Lake Park and Cedar Beach East (Hidden Beach). (3.7.3.3, page 3-131) E9 R3
- The adequacy of existing hydrants and other emergency infrastructure needs examination. (3.7.3.3, page 3-131)
- KIAA insists on the highest standards of design to mitigate noise impacts on trail users. The current experience of the trail is as a peaceful urban retreat. (4.7.3.5, page 4-92) E2 E4 O1
- KIAA expects that if safety fencing is used, it be integrated into an overall landscape design that includes land berms, evergreens, deciduous trees and shrubs, and hardscape elements. (6.3.2.4, page 6-58) N2
- We expect high aesthetic standards for screening to reduce visual impacts of Traction Power Substations (2.3.3.6, page 2-50)

3. Maintaining the quality of life of residents

- A station stop at 21st Street with 1,000 people daily boardings will greatly change the character of this neighborhood. We insist on a study of traffic and other impacts of the station on the neighborhood. (Table 2.3-4, page 2-32) E0 P4
- We expect consultation with the community on Traction Power Substation placement and I2

screening plans. (2.3.3.6, page 2-50) L1

- Contrary to the DEIS assertion, there will be a significant impact on community cohesion given the change from slow, infrequent freight trains to high speed LRT trains that will pass homes, parks, and trails every few minutes from 5:00 a.m. to 1:00 a.m. (3.2.2.6, page 3-58) E1 M3
- Substantial visual effects on residences will occur, as well as adverse privacy impacts to indoor and outdoor living areas, and must be mitigated. (3.6.3, page 3-115) N2
- Although the DEIS states otherwise, without explanation or verification, the proposed station area at 21st Street will have substantial visual impacts on nearby residences. This was pointed out during the DEIS scoping period. (3.6.3, page 3-117) I1,I2
- This DEIS does not consider impacts of light pollution on homes near the station. The effects of engine lights, station lighting, and any other lights must be taken into account and remediated. (3.6.5.3, page 3-123) N2
- KIAA requests that the Minneapolis Fire Department, Police Department, and emergency medical responders be consulted in development of safety and security plans, especially for the 2000 block of Upton Avenue. (3.7.3.3, page 3-131) R3 E9
- We appreciate that this DEIS points out substantial noise impacts that the SWLRT will have on our neighborhood and residents. Planners must not allow noise to destroy a quiet park and stable urban neighborhood. KIAA insists on the highest standards of design to mitigate noise impacts. (4.7.3.5, page 4-92) O1 E4
- During the scoping period, residents showed that new construction in the 2500 block of Upton Ave. S. along the Kenilworth Trail required extra deep footings because the ground propagates vibrations to the detriment of structures. The DEIS did not address this issue. KIAA requests that detailed vibration assessments be done as early as possible to determine adequate mitigation measures. (4.8.6, page 4-118) O1 E4

4. Ensuring the tranquility and functionality of proposed station areas I1,I2

- In accordance with City of Minneapolis policy and to protect neighborhood livability, KIAA opposes a park-and-ride lot at 21st Street. (Table 2.3-4, page 2-32)
- To improve safety of park and trail users, we request consideration of a split platform at the 21st Street station as proposed by the Cedar Lake Park Association design charette of November 2010. (Table 2.3-4, page 2-32) R3 I2
- This DEIS points to severe noise impacts from a station at 21st Street. KIAA insists on the highest standards of design to mitigate noise impacts. (4.7.3.5 Assessment Page 4-92) I2
- MPRB Police absolutely must be consulted on security issues related to a proposed station at 21st Street. An inadequately managed station would increase opportunities for illegal behavior, which has been a long-standing problem at Cedar Beach East (Hidden Beach). (3.7.2, page 3-129) E4 O1 R1
- Groundwater and drinking water must be protected. KIAA requests information about how this will be done. (4.1, pages 4-19, 4-21) E3 N4
- There is a great deal of landfill around Cedar Lake. KIAA needs assurance that contaminated soils will be dealt with appropriately during construction. (4.9.5, page 4-129) E5
- KIAA does not support changes in land use (development) near the 21st Street station. We expect parkland, trails, and green space to be protected for future generations. (5.2.5.1, page 5-21) N1
- A station area at Penn Avenue will have a significant impact on Kenwood residents. KIAA expects to be consulted on station area design and mitigation of impacts. L1 I2

E1

KIAA strongly urges all actors involved with the SWLRT to establish the highest standards of design and mitigation for this project. Design measures that may be considered "betterments" by agencies outside of our community are justified by the disproportionate adverse environmental impact to residential and green spaces compared to the more commercial or industrial areas along the line. Such measures are required to ensure that the proposed SWLRT will not substantially harm, and may even enhance, our community. N1

Detailed Comments, Chapters 2 - 6

Chapter 2: Alternatives Considered

2.3 Draft EIS Alternatives
2.3.3 Build Alternatives
Table 2.3-4, page 2-32, Stations

This table shows a station at 21st Street: At-grade, with center platforms, and a surface parking lot with room for 100 cars.

Comment: Minneapolis officials have informed the Kenwood Isles Area Association that a park-and-ride facility at the proposed 21st Street station would be contrary to the City's policy. We support this policy and oppose a parking lot at 21st Street. A parking lot would not be consistent with the quiet residential character of the neighborhood and would require destruction of wooded land or open green space adjacent to the Kenilworth Trail and Cedar Lake Park. I1, I2

Comment: To improve safety of park and trail users, and possibly to reduce noise impacts, we request consideration of a split platform at the 21st Street station as proposed by the Cedar Lake Park Association design charette of November 2010. (Table 2.3-4, page 2-32) I2

Comment: We expect a complete analysis of the traffic impacts of this proposed station on our neighborhood. A previous study projected 1,000 riders per day boarding at 21st Street. Given the low-density housing, the geography (much of the half-mile radius around the proposed station is either parkland or lake), and street lay-out of Kenwood, we conclude that either the figure of 1,000 riders per day is wrong, or our neighborhood will see tremendous change in traffic load. Such changes should be understood, planned, and managed. (Southwest LRT Technical Memo No. 6, Ridership Forecasting Methodology and Results, Preliminary for Review Only, September 9, 2009.) I2 P4

2.3.3.6 Traction Power Substations, page 2-50

TPSSs would be included at approximately one-mile intervals along the Build Alternatives to supply electrical power to the traction networks and to the passenger stations. … The TPSS sites would be approximately 80 feet by 120 feet. The proposed general locations for TPSSs are shown in Appendix F. The proposed sites were located to minimize impacts to the surrounding properties; however, the site locations are subject to change during Preliminary Engineering and Final Design. TPSS sites are selected to meet a balance of safety, reliability, cost, and operational efficiency needs.

Comment: KIAA notes that in Appendix F, at TPSS is proposed just south of the Burnham bridge on the west side of the trail. This will impact trail users as well as adjacent residences. If this site is retained, we insist that designers work with KIAA and adjacent residents to adequately landscape and screen this facility. E2 N2

Chapter 3: Social Effects

The Kenwood Isles Area Association has a number of concerns regarding the Social Effects of the proposed SWLRT project. Specifically, the train will travel through a quiet, park-like area used for bicycling and pedestrian trails, adjacent to Cedar Lake Park and Cedar Beach East (Hidden Beach). These community assets were created more than 20 years ago through citizen initiative, and have been developed and maintained by volunteers and public entities since then. Further, the line will pass by quiet, stable residential areas that have seen significant private investment in the maintenance or improvement of the housing stock in recent years. We especially point to effects on land use, community cohesion, visual and aesthetic effects, and safety and security.

E1

N2

3.1 Land Use and Socioeconomics
3.1.5.1 Effects to Land Use and Socioeconomics, page 3-34

In Minneapolis, land use changes are anticipated along each of the planning segments. Residential land uses surrounding the Segment A alignment are mainly low- to medium-density, single-family detached housing near Cedar Lake and Lake of the Isles. [...] Implementation of LRT service and stations along the Segment A alignment would likely result in some land use changes surrounding the stations, particularly north of the lakes where tracts of undeveloped land are being considered for development.

Comment: While we support consideration of redevelopment within the Basset Creek Valley area, the Kenwood community has expressed the priority that existing park, trail and open green space in the Kenilworth Corridor between Lake Street and I-394 absolutely must be preserved to the greatest extent possible. The existing land use represents an important neighborhood, city, and regional asset. The City of Minneapolis' Resolution 2010R-008 by Colvin Roy entitled "Supporting the Southwest Transitway Locally Preferred Alternative" reflects this priority:

E2

M1

N8

> "Be It Further Resolved that the current environmental quality, natural conditions, wildlife, urban forest, and the walking and biking paths be preserved and protected during construction and operation of the proposed Southwest LRT line.
>
> Be It Further Resolved that any negative impacts to the parks and park-like surrounding areas resulting from the Southwest LRT line are minimized and that access to Cedar Lake Park, Cedar Lake Regional Trail, Kenilworth Trail and the Midtown Greenway is retained. "

E2

N1

KIAA expects that zoning in the area will remain R1 and R2 with the exception of the R4 and R5 areas south of Cedar Lake Parkway, and Shoreland Overlay District restrictions will be respected.

E2

M1

3.2 Neighborhood, Community Services and Community Cohesion Impacts
3.2.2.1 Neighborhoods, p.3-49 – 3-52

Minneapolis

Each Build Alternative would operate through several geographically defined neighborhoods in the City of Minneapolis.

Comment: While the proposed LRT 3A (LPA) route would travel through the defined boundaries of nine Minneapolis neighborhoods, it will have the greatest impact on Kenwood, CIDNA, and West Calhoun due to the geography and existing land use of the area. The Kenilworth Trail and Cedar Lake Park – vital local and regional amenities – are both part of the Kenwood neighborhood, with the Kenilworth Trail continuing through CIDNA and West Calhoun. (Please note that the DEIS description of Kenwood includes areas that are actually part of CIDNA.) E2 U

3.2.2.6 Neighborhoods and Community Cohesion, page 3-58

Segment A [LRT1A and LRT 3A (LPA)] and Freight Rail Relocation

However, the operation of LRT service along Segment A is not anticipated to adversely affect community cohesion because Segment A is currently bisected by a freight rail line and adding LRT service does not alter the existing barrier. [...] The operation of LRT service along Segment A is not anticipated to adversely affect community cohesion.

Comment: Kenwood residents find this statement absurd. The infrequency and slow speeds of the current freight trains means tracks are easily crossed, as evidenced by the many informal pathways across the tracks that provide access from residences to parks, trails, and retail stores. LRT, on the other hand, would run every 7.5 minutes in each direction at high speeds. This change clearly alters the existing linkages within and among neighborhoods. Also, the Kenilworth trail now functions as a community connector where neighbors meet in a recreational context. So while KIAA agrees that new transit services and linkages would become available to neighborhood residents, we completely disagree that there would be no adverse impact on community cohesion. E1 M3

3.3 Acquisitions and Displacements/Relocations

3.3.3.3 Build Alternatives, Page 3-70

LRT 3A would require almost twice the number of parcels LRT 1A. LRT 3A-1 (co-location alternative) would require almost three times the number of parcels as LRT 1A.

Comment: KIAA requests that the 79 individual commercial and 11 residential properties proposed for acquisition be identified. As stated in our Resolution Opposing Co-Location (see attached) KIAA opposes the taking of Cedar Shores Townhomes and other Minneapolis residences for the co-location alternative. E10 M4 D

3.4 Cultural Resources

3.4.5 Cultural Resources - Long-Term Effects, Page 3-79

Architectural properties in Segment A which are listed in or eligible for the National Register include seven individual properties and five historic districts. The segment also includes three individual architectural properties and one historic district which are under evaluation for eligibility.

Comment: The Kenwood Isles Area Association looks forward to contributing as a consulting party to the Section 106 Review process. We urge SWLRT designers and engineers to adopt the highest design standards to protect our local, regional, and national cultural assets including, but not limited to, Cedar Lake Parkway and the Historic Grand Rounds. S1 E0

3.6 Visual Quality and Aesthetics
3.6.2 Existing conditions
3.6.2.4 Segment A [LRT 1A, LRT 3A (LPA), and LRT 3A-1 (co-location)], page 3-104
Segment A is located on existing rail ROW owned by HCRRA that is currently used as a pedestrian and bike trail and parallels existing freight lines (Photo 3.6-4). The corridor travels through the Cedar-Isles-Dean and Kenwood neighborhoods, the Minnesota Chain of Lakes Regional Park, and travels between a pair of lakes (Cedar Lake and Lake of the Isles) in Minneapolis. Land uses adjacent to the segment between West Lake Street and I-394 include transportation uses for freight, parkland, and single- and multi-family residential land uses.

Comment: In addition to the land uses listed above, please note the heavy use of bicycle and pedestrian trails along the Kenilworth Corridor. Bicycle commuting constitutes a significant portion of this use. According to information provided to the Minneapolis' Park and Recreation Board's Community Advisory Committee, the Kenilworth Trail received 617,000 visits in 2009 and use has only grown since then. The Regional Park Visitor Survey 2008 indicates that 63% of these visits were non-local, meaning that more than six out of ten users came from outside of Minneapolis. E2 P8

3.6.3 Long-Term Effects, page 3-108
Segment A [LRT 1A and LRT 3A (LPA)], page 3-115
Visual impacts on sensitive receptors located at single-family and multi-family parcels throughout the corridor would generally not be substantial because of mature vegetation buffers and the presence of an existing freight rail corridor. Visual impacts may be substantial where the alignment is not screened by vegetation. Visual intrusion and privacy impacts of the project elements on the sensitive receptors may be substantial where views from the alignment into previously private spaces are created. Visual intrusion and privacy impacts on the outdoor living areas of residential properties could be substantial where vegetation or landscape buffers do not exist.

Comment: Much of the existing mature vegetation is not intentional landscaping. It is adequate to screen views from very infrequent freight trains that rarely run after dark, but is entirely insufficient for passenger trains (LRT) that run every few minutes from early morning into the late night – from 5:00 a.m. to 1:00 a.m. With the introduction of LRT, KIAA asserts that there will be substantial visual effects on trail users and residences not screened by well-designed landscape and hardscape elements, including land berms and evergreens. We agree that adverse privacy impacts to indoor and outdoor living areas of residential properties will also be significant without excellent landscape design. We urge project engineers to employ the highest standards of creativity and design as they attempt to preserve the quality of this vital urban green space and its surrounding neighborhoods. E2 N2

Page 115, cont. (Cedar Lake Parkway) The proposed alignment is on a bridge over Cedar Lake Parkway. Visual impacts on sensitive receptors adjacent to the corridor in the multi-family residential parcel and Cedar Lake Parkway could be substantial. Visual intrusion and privacy impacts of the project elements on the residents in units with windows facing the alignment where it is bridged structure could be substantial.

E8

N2

S2

Comment: KIAA asserts that a bridge over Cedar Lake Parkway would clearly have substantial adverse visual impacts on residences from Lake Street to the Kenilworth Channel. It would also have substantial adverse impacts on users of the Historic Grand Rounds (drivers, bicyclers, pedestrians), as well as Cedar Lake Park and beach users, a fact not mentioned in the present study. Such a bridge is also likely to violate the Shoreland Overlay District zoning requirements, which state:

> "Except for structures subject to a more restrictive maximum height limitation in the primary zoning district, the maximum height of all structures within the SH Overlay District, except for single and two-family dwellings, shall be two and one-half (2.5) stories or thirty-five (35) feet, whichever is less."
> *Source: Minneapolis, Minnesota, Code of Ordinances; Title 20 – Zoning code; Chapter 551. – Overlay Districts; Article VI. – SH Shoreland Overlay District*

E8

We do not see any evidence in the present study that the feasibility of trenching, tunneling, or depressing the LRT below Cedar Lake Parkway has ever been examined. We strongly request that a thoughtful and serious study of this possibility be undertaken, since a bridge would have such grave quality of life impacts on area residents and users, and an at-grade crossing may have significant adverse traffic and safety impacts. KIAA will look forward to participating as a consulting party during Section 106 consultation in this regard.

Page 3-117
Four at-grade center-track platforms are proposed for each station in the segment. No sensitive receptors, with the exception of the aforementioned trail users, are located adjacent to the station sites; therefore no additional visual impacts are anticipated.

E2

I2

N2

Comment: KIAA agrees that there will be substantial adverse impacts on trail users, recreational users, and residential areas along the trail. We wonder, though, if the DEIS authors visited the site of the proposed 21st Street station? If they had, they would have seen the various homes (sensitive receptors) within close proximity to the proposed station location that would be adversely affected. Clearly, the station area will create additional visual impacts for these Kenwood residents.

3.6.5.3 Mitigation, Build Alternatives, page 3-123
The need for additional landscaping to mitigate potential visual intrusion/privacy impacts following clearing and grubbing activities during construction will be addressed in the Final EIS. Station design and aesthetics will be addressed during Preliminary Engineering and Final Design. Mitigation treatments for visual impacts would be developed during the Final Design process

through discussion with affected communities, resource agencies, and stakeholders. Measures would be taken to ensure the design and construction of the Build Alternative considers the context of the corridor and that sensitive receptors receive adequate mitigation. Possible mitigation measures could include:

- Landscaping vegetation such as shrubs and bushes to supplement existing vegetation buffers
- Evergreen vegetation screening to supplement deciduous vegetation buffers in leaf-off conditions
- Fencing
- Tunneling

Comment: Appreciating the present study's approach that mitigation treatments would be developed through discussion with affected communities, KIAA requests definition of "measures [that] would be taken to ensure the design and construction of the Build Alternative consider the context of the corridor and that sensitive receptors receive adequate mitigation." E10 N2

Comment: While we welcome and are grateful for this list of possible mitigation measures, KIAA finds it woefully inadequate. Please see attached Joint Goals for SWLRT Design and Mitigation, a resolution passed by the Kenwood, CIDNA, and West Calhoun Neighborhoods in February 2011.

Comment: Based on the present study, we assume that consideration of placement and screening/mitigation of Traction Power Substations would also be done in cooperation with affected communities and stakeholders.

Comment: The DEIS does not consider impacts of light pollution – from station lighting and headlights and other vehicle lighting – which will impact trail users and residents. KIAA expects that these impacts will be analyzed and mitigated. E4 N2

3.7 Safety and Security

3.7.2 Existing Conditions, page 3-129

Public safety and security within the study area is provided by the police departments, fire departments, and emergency response units of the cities of Eden Prairie, Minnetonka, Hopkins, St. Louis Park, and Minneapolis. Emergency medical services are located in each city.

Comment: Please note that the Minneapolis Park Police also provide service within the study area. KIAA requests that the MPRB Police be consulted on security issues related to the impact of a proposed station at 21st Street on Cedar Beach East (Hidden Beach) and their input be incorporated into final design plans. In the summer 2012, Hidden Beach generated more police actions than any other park in the MPRB system. For the last five years, KIAA has provided supplementary funding to the Park Police to allow for increased patrols in this area. The neighborhood has expressed grave concern that an inadequately managed station would increase opportunities for illegal behavior. R3 E9

Page 3-129, cont. Primary safety concerns associated with the freight rail relocation segment of the proposed project, as expressed by the community, are derailments, chemical spills, the

accessibility and safety of pedestrians (particularly near schools), and vehicular and traffic safety at grade crossings.

Comment: Please note that residents near the Kenilworth Corridor have no less concern about such issues as derailments, chemical spills, pedestrian and cyclist safety, and traffic safety. D E9

3.7.3.3 Safety – Long Term Effects - Build Alternatives, page 3-131

The project would be designed in a manner that would not compromise the access to buildings, neighborhoods, or roadways, and would not compromise access to the transitway in the event of an emergency.

Comment: Please note that operation of LRT 3A could hamper access by emergency service providers to Cedar Lake Park, Cedar Beach East (Hidden Beach), and residences in the 2000 block of Upton Avenue South. KIAA requests that the Minneapolis Fire Department, MPRB Police, and emergency medical responders be consulted and their input be incorporated into safety and security plans for our area. Furthermore, the adequacy of existing hydrants and other emergency infrastructure needs to be examined. R3 E9

Chapter 4: Environmental Effects

4.1 Geology and Groundwater Resources

4.1.3.4 Existing Conditions, Groundwater Resources, page 4-11

Segment A (Figure 4.1-11): Concern exists [due to shallow groundwater] for the areas near Lake Calhoun, the channel between Cedar Lake and Lake of the Isles, and the low areas beginning near the 21st Street station and extending through the areas near the Penn and Van White stations to I-94.

4.1.4.2 Long-term Effects, Groundwater, page 4-21

The Build Alternatives may have long-term impacts on groundwater if a permanent water removal system (dewatering) is required. Permanent water removal is anticipated where the cut extends below the water table. [There are] …possible needs on Segment A and at a second cut along Segment 3, because of shallow groundwater.

Comment: The present analysis is inadequate. The low lying areas around the 21st Street station extending through the Penn and Van White stations are identified as areas of concern regarding groundwater. Additionally, there is a possible need for permanent water removal systems along segment A, although the specific location is not identified. Both the identification of the risks and potential mitigation efforts in this area are unclear in the document. E3 N4

4.1.3.6 Groundwater Sensitivity, page 4-19

Several areas in the study area lie within zones of very high sensitivity to pollution of the water table system (Piegat 1989).

Comment: The area surrounding the 21st Street station's underlying bedrock is the Prairie du Chien Group, in which resides a major aquifer supplying many municipalities potable water supply. In segment A, the area of land between Cedar Lake and Lake of the Isles is an area of "very high sensitivity to pollution of the water table system". The present study in inadequate and provides only general information as to efforts to be made to ensure our drinking water is not contaminated. E3 N4

4.3 Biota and Habitat

4.3.5 Mitigation, page 4-53

Impacts to regulated resources, such as wetlands, threatened and endangered species, and water resources/water quality, would be mitigated in accordance with the appropriate permits as discussed in other sections of this Draft EIS. This mitigation would also benefit biota and habitat.

Comment: A wide variety of migratory birds and other wildlife adapted to natural spaces in urban environments (deer, fox, turkeys, etc.) constitute a critical element of the Kenilworth Corridor and Cedar Lake Park. In addition to providing habitat, the area also creates environmental learning opportunities for both children and adults. KIAA insists that LRT design consider ways to benefit biota and habitat and minimize habitat fragmentation in this unique E10 N8

urban green space.

4.7 Noise

4.7.3.5 Assessment, Page 4-92

Segment A [LRT 1A and LRT 3A (LPA)]: West Lake Station to Intermodal Station

Category 1

There are no noise impacts to Category 1 land uses in this segment.

Category 2

There are a total of 73 Moderate Noise Impacts and 183 Severe Noise Impacts to Category 2 land uses in this segment. The estimated number of impacted residential units is 85 Moderate and 406 Severe. Many of the impacts are due to low existing ambient noise levels combined with proximity of residential neighborhoods to the alignment and high anticipated speeds of operation. Some impacts are due to low existing ambient noise levels combined with light rail vehicle-mounted audible warning signal (bell) use at the 21st Street Station and the nearby 21st Street at-grade crossing.

Category 3

There is one moderate impact to a Category 3 land use. The impact is due to very low ambient background noise levels found in the walking-trails of the Cedar Lake portion of the Minneapolis Chain of Lakes Regional Park combined with close proximity to the tracks and bell use at grade crossings and crosswalks. This may not apply to the entire Cedar Lake portion of the park, especially in areas where park- goers themselves create higher noise levels, and in areas of the park farther from the tracks.

Comment: Light rail vehicle audible warning bells for at grade crossings have a sound exposure of 106 db (4.7.3.4, page 4-84), which is close to the sound level of a chain saw or a rock concert. It is estimated that there will be nearly 260 LRT trips per day from 5:00 a.m. to 1:00 a.m. During peak hours the frequency will be greater than one train every four minutes. There are 1,143 housing units along segment A that will be impacted by noise, nearly half of which (520) will suffer severe noise impacts at identified in the DEIS (Table 4.7-3, page 4-86). Of these, 406 housing units in CIDNA and Kenwood (segments A-A and A-B) will potentially experience severe noise impacts and 68 will experience moderate noise impacts (Table 4.7-8, page 4-93). KIAA insists that noise impacts on residences must be mitigated. This is currently a stable residential community with very low ambient noise levels.

O1, O4

E4

Comment: Cedar Lake Park should be categorized as a Category 1 land use. It is primarily a very quiet, tranquil wooded area, and will experience the same level of noise impact as the homes near the proposed 21st Street station. The station will be located at the entrance to the park, and sound carries long distances through the park because of the normally low ambient noise levels. Park users likely create slightly higher noise levels no more than two to three months out of the year when Cedar Beach East (Hidden Beach) is busy, often with hundreds of daily visitors. Other months, the Cedar Lake Park is a serene, "up north" experience where the sound of woodpeckers tapping trees can be heard from one side of the park to the other.

O1

E2 E4

I2

Comment: There is no discussion of the impact of noise to the highly utilized Kenilworth bicycle and pedestrian trails. The Kenilworth Trail is a quiet, serene haven for bicycler commuters and recreational users within an urban environment.

O1

E4

Comment: There is no discussion of the noise impacts that would be created by a bridge over Cedar Lake Parkway. These will clearly be significant.

Comment: KIAA insists that the highest standards of design must be employed to mitigate these noise impacts. Severe noise affecting a large number of the homes in our neighborhood is clearly not acceptable. We believe noise impacts to Cedar Lake Park and the Kenilworth Trail would go beyond moderate, which is equally unacceptable. Excellent mitigation is needed to safeguard the park and trails from noise impacts. The design of the SWLRT in the Kenilworth Corridor must be sensitive to the existing context and do everything possible to protect this unique space. KIAA expects involvement in developing and approving mitigation plans. O1, O5 E4

4.8 Vibration

4.8.6 Mitigation, page 4-118

Detailed vibration analyses will be conducted during the Final EIS in coordination with Preliminary Engineering. The Detailed Vibration Assessment may include performing vibration propagation measurements. These detailed assessments during the Final EIS/preliminary engineering phase have more potential to reduce project- related effects than assessments of mitigation options at the conceptual engineering phase of the project. Potential mitigation measures may include maintenance, planning and design of special trackwork, vehicle specifications, and special track support systems such as resilient fasteners, ballast mats, resiliently supported ties, and floating slabs.

Comment: The Prarie du Chien bedrock associated with the area around the 21st Street station in the Kenwood Isles neighborhood is an efficient conductor of ground-based vibration and ground-based noise. The area is identified as having a "high potential of efficient vibration propagation" (4.8.3.4, page 4-115), and 231 units are identified as being impacted in Segment A (Table 4.8-4, page 4-115). Given that the infrequent freight rail traffic vibrations can certainly be felt four to five blocks distant from the tracks it seems quite possible that the number of housing units impacted will be greater than cited in the DEIS. It is unfortunate that actual vibration testing has not been done as part of the DEIS. O1, O5 E4

Comment: During the scoping process, residents pointed out that new construction at 2584 Upton Avenue South required extra deep footings because the ground in this area propagates vibrations to the detriment of structures. An architect's report was submitted. There is no evidence in the current study that this information was taken into account. KIAA insists that detailed vibration assessments be done as early as possible in Preliminary Engineering to determine the impact on area homes. O1

4.9 Hazardous and Contaminated Materials

4.9.5 Mitigation, page 4-129

It is reasonable to expect that previously undocumented soil or groundwater contamination may be encountered during construction. A Construction Contingency Plan would be prepared prior to the start of construction to account for the discovery of unknown contamination. This plan would outline procedures for initial contaminant screening, soil and groundwater sampling,

laboratory testing, and removal, transport, and disposal of contaminated materials at licensed facilities. Contaminated material removal and disposal would be in accordance with this plan, monitored by qualified inspectors, and documented in final reports for submittal to MPCA.

E5

N10

Comment: Based on reviews of state databases there are three identified contaminated sites in Segment A around the 21st Street station (Figure 4.9-4, page 4-125). Given the historical usage of the area surrounding the 21st Street station and the Penn station areas for rail siding and transfer and the obvious existence of debris piles and old structures in the area it seems likely that additional contamination may be present in the area.

N10

Comment: The neighborhood needs assurance that contaminated soils will be dealt with appropriately during construction.

Chapter 5: Economic Effects

5.2 Station Area Development

5.2.1 Land Use

5.2.1.4 Segment A [LRT 1A and LRT 3A (LPA)] – West Lake Street Station to Royalston Station, page 5-12

Land use within one-half mile of Segment A is predominantly single family residential (detached housing, 20.0 percent), parks and open space (16.0 percent), and water features (10.7 percent). Industrial land uses make up 14.3 percent of the total land use; however these uses are primarily concentrated near downtown Minneapolis. Housing adjacent to Segment A includes single-family detached and multi-unit attached structures, which together encompass 29.6 percent of the land uses adjacent to this segment.

M1 E1

5.2.5.1 Mitigation for Land Use Plan Consistency, page 5-21

Changes in land use and denser development near stations are anticipated, consistent with existing plans and policies. Overall, positive economic effects are anticipated under all build alternatives for the local community and region. No mitigation is required.

Comment: KIAA opposes land use changes around the proposed 21st Street station. We urge protection and, if possible, enhancement of the Kenilworth Trail and Cedar Lake Park area as a unique and vibrant urban green space. We do not support denser development near the 21st Street station.

Chapter 6: Transportation Effects

6.2 Effects on Roadways

6.2.2.2 Physical Modifications to Existing Roadways, page 6-24

Also in Segment A with LRT 3A-1 (co-location alternative) only, the ROW needed for this alternative will affect Burnham Road, which is adjacent to the corridor and accessed off of Cedar Lake Parkway. Burnham Road is the main access point for homes fronting on Cedar Lake.

6.2.2.3 Operational Impacts at Intersections

Segment A (LRT 3A-1 Co-location Alternative), page 6-39

The conceptual design for LRT 3A-1 (co-location alternative) includes the light rail and freight rail tracks crossing Cedar Lake Parkway at-grade. Therefore, a queuing analysis was performed for the Cedar Lake Parkway crossing including an analysis of impacts to Burnham Road and Xerxes Avenue in proximity to the Cedar Lake Parkway crossing.

E8

Comment: KIAA notes that at-grade crossing studies were done at Cedar Lake Parkway only for the 3A-1 co-location alternative. Given that we strongly oppose a bridge over this feature of the Historic Grand Rounds, preferring a depression/trench/tunnel for the LRT, the comments below consider facts about the at-grade crossing that apply whether or not trains are co-located. We reiterate here our opposition to co-location.

Comment: Please note that Burnham Road is also the main access point for many residences along the Kenilworth Corridor in both Cedar-Isles-Dean and Kenwood, as well as the only alternative to driving around Lake of the Isles for many Kenwood and Lowry Hill residents.

E8 P4

Comment: Not included in this analysis, Sunset Boulevard at Cedar Lake Parkway is also blocked and has significant queuing when freight trains cross under current conditions.

Comment: Not considered are potential noise impacts of an at-grade crossing at Cedar Lake Parkway. These would be considerable, especially for residents near the intersection and for users of Cedar Beach South.

E4 O1

6.2.2.4 Transit Station Access, page 6-41-42

LRT station access would vary. [...]The following stations would provide public parking. Access to the following stations would be by walking, bicycling, driving an automobile, or transferring from local bus services:

· West Lake Street
· 21st Street
· Penn Avenue

Comment: Chapter 2 identifies that public parking would be provided at 21st Street as a surface lot for 100 cars. This is unacceptable to KIAA, and contrary to City of Minneapolis policy. We oppose a park-and-ride lot at 21st Street.

I1,I2

6.2.2.6 Building/Facility Access, page 6-46

For the Build Alternatives, access to several buildings and facilities would need to be modified. In Segments 1 and 4, no changes to building and facility access would be required. In Segments 3 and A, the access to several private properties would be slightly realigned in the following locations:

[...]

· Cedar Lake Parkway and Burnham Road

Comment: KIAA requests information about which buildings at Cedar Lake Parkway and Burnham Road would see their access modified, what is the proposed modification, and under what conditions this would occur.

E8 P4

6.3 Effects on Other Transportation Facilities and Services

6.3.1.4 Bicycle and Pedestrian Facilities, page 6-52

The City of Minneapolis and Transit for Livable Communities have conducted two- hour bicycle and pedestrian counts along these trails for the past several years. The annual counts are conducted in September and attempt to capture peak commuting hour traffic volumes. The two-hour bicycle and pedestrian volume counts are shown in Table 6.3-3. Although count data is not available, anecdotal accounts from many cyclists indicate that these weekday counts do not represent peak-hour trail volumes, which may occur on weekends when the trails are heavily used.

Comment: We note that Table 6.3-3 shows that the Kenilworth Trail through Kenwood and CIDNA has very high use by bicycle commuters, and concur that this study of the traffic volumes along the trail certainly does not capture the heavy weekend recreational use. Minneapolis Park and Recreation Board counts for 2009 estimate 617,000 annual "visits" to the Kenilworth Trail. E2 P8

6.3.2 Long-Term Effects

6.3.2.1 Build Alternatives, page 6-55

Parking Spaces Added for Build Alternatives

Additional parking would be added at many of the proposed stations as outlined in Section 2.2.3 of this Draft EIS. Depending on the number of spaces needed and the local constraints, parking may be in structures. The parking facilities are expected to generate additional traffic on local streets that provide access to the station areas.

Comment: The Kenwood Isles Area Association opposes a park-and-ride facility at the proposed 21st Street station, and our understanding is that such a facility would be contrary to the City of Minneapolis' policy. I1 P4

Comment: We request a complete analysis of the traffic impacts of this station on our neighborhood. A previous study projected 1,000 riders per day boarding at 21st Street. Either the figure of 1,000 riders per day is wrong, or our neighborhood will see tremendous change that must be better understood and planned. (Southwest LRT Technical Memo No. 6, Ridership Forecasting Methodology and Results, Preliminary for Review Only, September 9, 2009) E10

6.3.2.4 Bikeways and Major Pedestrian Facilities, page 6-58

The conceptual engineering developed for this Draft EIS indicates that there is sufficient space within the HCRRA's ROW for the Build Alternatives and the interim-use trails to coexist; therefore, with the exception of the Midtown Greenway in Segments C-1 and C-2, long-term impacts on the capacity and operations of the interim-use trails is not anticipated. For safety reasons, it is likely that fencing or other measures to separate the bicycles and pedestrians from the LRVs would be necessary, with crossing of the tracks allowed at roadway intersections and station locations.

Comment: See Chapter 3.2 comment on community cohesion. Also, KIAA urges that if fencing is used for safety reasons, it should be part of an integrated, overall landscape design that includes land berms, evergreens, deciduous trees and shrubs, and hardscape elements. This design should protect and value the existing park-like environment of the trail areas and the adjacenct Cedar Lake Park, and should be done in cooperation with the community including KIAA, CIDNA and the Cedar Lake Park Association. E4 E2 N2, N1

September 8, 2008

Resolution supporting light rail transit for the long-term best interests of the City of Minneapolis, and supporting a Kenilworth Corridor alignment for the Southwest LRT only with neighborhood approved mitigation and betterment plans.

Whereas the Kenwood Isles Area Association (KIAA) supports public transportation, including light rail, for the city of Minneapolis and the Metropolitan region.

Whereas the proposed Southwest LRT ("LRT") represents a significant investment in public infrastructure that will serve the area for the next 50 to 100 years.

Whereas KIAA believes that in addition to providing economic stimulus and transportation services for fast growing suburbs, such an investment should also consider in equal weight the usage and the long-term best interests of Minneapolis residents, neighborhoods, businesses, and regional amenities. M2

Whereas KIAA believes that such benefits as interlining the LRT with the Hiawatha Line should not outweigh the benefits of serving the usage and long-term best interests of Minneapolis constituents.

Whereas the LRT in the Kenilworth Corridor would have an adverse environmental impact on the unique urban green space along the Kenilworth Trail, currently used by recreational bikers, skaters, runners, walkers, bike commuters, children, families, domestic animals, and wildlife. E2

Whereas many residences in the Kenwood-Isles Neighborhood abut or are located very close to the Kenilworth Corridor and the LRT would have an adverse environmental impact on these homes and negatively impact the quality of life in these homes. N1

Whereas the LRT in the Kenilworth Corridor would have an adverse environmental impact to parts of Cedar Lake Park and its wildlife habitat, and would impede access to the Park by neighborhood residents. M3

Whereas Cedar Lake Parkway, a National Scenic Byway, is an important traffic artery for area residents and LRT in the Kenilworth Corridor would cause adverse traffic flow impacts at that intersection and through Kenwood streets. P4

Whereas there is precedent in Minneapolis for mitigation of rail traffic impacts (e.g., a 22-foot deep trench crossed by 28 street bridges along a corridor now used as the Midtown Greenway, and a tunnel under the Minneapolis-St. Paul International Airport built for the Hiawatha LRT line.)

Whereas whichever alignment is chosen for the LRT, KIAA residents currently have limited access to public transportation and such needs must be addressed through more inclusive public transportation policies. P1

Be it resolved that the KIAA supports the thorough and balanced examination of the proposed LRT alignments 3C and Option E in view of serving Minneapolis residents, neighborhoods, employers, businesses, and regional amenities. M3

Be it further resolved that KIAA supports an in-depth study, before the Southwest LRT alignment preference is chosen, to determine whether the needs of the proposed Basset Creek Valley Redevelopment District can be served by the proposed Bottineau Line currently under consideration by Hennepin County. M1

Be it further resolved that if the Kenilworth Corridor alignment is selected for the LRT, KIAA expects to work closely with Hennepin County and the City of Minneapolis to design plans that include real and substantial mitigation and betterments that will be acceptable to the Kenwood neighborhood. **Until such plans have been developed, KIAA opposes the LRT in the Kenilworth Corridor.** L1

E0

Be it further resolved that KIAA supports LRT design measures that enhance rather than degrade the neighborhoods, parks, and green spaces along any selected alignment, including alignments 3C or E. N1

Be it further resolved that KIAA strongly urges Hennepin County and the City of Minneapolis to take all possible measures to identify and secure funding to pay for design measures considered "betterments" by agencies outside of our community regardless of which alignment is chosen. Design measures significantly above the minimum required mitigation in certain areas are justified by the disproportional environmental impact to residential and green spaces compared to the more commercial areas along the line. E0 N2

Joint Goals for SWLRT Design and Mitigation

February 7, 2011

The proposed $1.2 billion Southwest light rail transit (SWLRT) line running between Eden Prairie and downtown Minneapolis will benefit many communities it serves.

In Minneapolis, the SWLRT is proposed to run along the Kenilworth Corridor. The busy and vibrant West Calhoun area anchors this corridor to the south. Going north, the LRT will pass through quiet neighborhoods, vibrant urban parks and trails, and natural greenspaces. These unique areas will pose challenges to designers and engineers. These challenges must be met so that SWLRT contributes to, enhances, and preserves our attractive and well-functioning Minneapolis communities.

We strongly urge our elected representatives and city officials to demand the highest design standards and most effective mitigation practices available to ensure long-term benefits for our city. This can be achieved through advocacy, zoning codes, historic designation, long-range planning, public-private partnerships, alternative funding sources and other tools. We hope that our governing bodies (Met Council, Hennepin County, City of Minneapolis, Minneapolis Parks and Recreation Board) will work together, along with neighborhood associations and non-profit organizations such as the Cedar Lake Park Association, on both immediate and long-term SWLRT design issues.

The undersigned neighborhood associations' general goals for LRT design and mitigation of environmental impacts from the proposed SW LRT within the City of Minneapolis include:

1. Maintenance of current healthy, stable, livable communities.
2. Safety and enjoyment of parkland and trails for recreational users and bicycle commuters.
3. Protection of vital urban green space and wildlife habitat.
4. Maintenance or creation of traffic patterns that would ease congestion and enhance neighborhood livability.

Specifically, we believe the following <u>general mitigation approaches</u> must be advocated: E0

N2

1. Tunneling or trenching the tracks must be included where necessary to reduce noise, traffic, and visual impacts. This includes full tunneling, cut and cover and trenching options.

2. A full range of fencing, berming, and landscaping alternatives must also be addressed.

3. Track construction must reduce noise and other impacts. For example, mitigation should include single weld tracks, straightened tracks, and embedded tracks where appropriate. E10 E4 N2

4. Visual impacts from overhead catenaries system must be minimized. For example, painted/fluted/tapered poles and appropriate trolley wire for power sources might be appropriate mitigation measures. O1

5. Disruption to neighborhood livability should be minimized through directional lights/horns for station and LRT operation through the neighborhoods; elimination or severely limiting the use of crossing bells; and carefully placed, judicious lighting.

6. Speed limits of trains must conform to stated mitigation goals. Q2

7. No additional trackwork related installations (such as, switches, storage tracks, crossovers, etc.) should be allowed. Q0

8. Affected neighborhoods must agree with all parking proposals, including parking lots and parking restrictions on neighborhood streets. I1

9. Minneapolis Park Board properties must be respected, with solutions to key areas (such are Cedar Lake Pkwy, Kenilworth Channel, and Cedar Lake Park) negotiated with the MPRB and neighborhoods. E2 N1

10. Bike and walking paths near SW LRT must be consistently maintained or improved and be safe and satisfactorily protected.

11. Public safety must be considered, including maintenance of access for emergency vehicles in neighborhoods adjacent to LRT and the need for police services around station stops. R1

12. Changes in car traffic patterns must be fully analyzed and addressed to the satisfaction of neighborhoods. P4

13. Economic development must be limited to and encouraged only in appropriate areas. M2

14. Freight rail must be relocated to another corridor and not co-located with the LRT on the Kenilworth corridor. D

15. During the construction period, neighborhood livability must be maintained, including bicycle trails and pedestrian connections through neighborhoods. E0/ N1

In sum, our Minneapolis neighborhood associations have confidence that SWLRT can

have a positive impact in our communities if it is well designed and respects the above stated goals. Designers and engineers will face diverse challenges at the most southerly section of the SWLRT line in Minneapolis. They will need to enhance West Calhoun's commercial growth and recreational center with a station area that builds strong, visible and safe connections to the commercial community as well as the Chain of Lakes and the historic MPRB Grand Rounds. Car traffic must be mitigated and bicycle and pedestrian infrastructure should be enhanced. In the CIDNA area, designers must ensure livability in areas of denser housing and maintain attractive recreational opportunities. In the CIDNA, Kenwood and Lowry Hill areas, designers must seek all opportunities to preserve and enhance uniquely tranquil urban landscape, bicycle commuting, and recreational areas, including around the proposed 21st Street station. Every possible effort must be made to minimize the impact of additional traffic on Kenwood streets that are potential routes to the station. I1, I2

With advocacy, high standards, creativity, and use of available tools and partnerships, the SWLRT can be a national example of excellence in transit design.

Michael Wagner, chair
West Calhoun Neighborhood Council

Art Higinbotham, president
Cedar-Isles-Dean Neighborhood Association

Sam Murphy, chair
Kenwood Isles Area Association

Kenwood Isles Area Association, June 4, 2012

Resolution opposing co-location of freight rail and light rail in the Kenilworth corridor

Whereas the Kenilworth corridor passes through the Kenwood Isles Area Association (KIAA) neighborhood; and

Whereas KIAA is sympathetic to the mitigation needs of St. Louis Park created by the relocation of freight rail due to the development of the Southwest LRT line in the Kenilworth corridor and encourages the highest standards of design and mitigation in all aspects of the SWLRT project; and

Whereas the City of Minneapolis affirmed the choice of the Kenilworth corridor as the "Locally Preferred Alternative" route based on the proposal that freight rail be removed from the Kenilworth corridor; and

Whereas the Kenilworth bicycle and pedestrian trails provide commuter and recreational opportunities to hundreds of daily users; and

Whereas co-location of freight and light rail in the Kenilworth corridor would reduce the amount of space for safe recreational and commuter use by at least 15 feet; and

Whereas the narrowest section of the Kenilworth corridor is only 62 feet, barely wide enough for light rail alone; and

D

Whereas co-locating freight and light rail in the Kenilworth corridor would necessitate the destruction of many townhomes, which are considered "smart development" (high density, attractive, well maintained, privately owned), and which provide substantial property tax revenue for the City of Minneapolis, Minneapolis Schools, and Hennepin County; and

M4

E0

Whereas co-locating freight and light rail in the Kenilworth corridor would create additional negative impacts to homeowners along the corridor, who will be significantly impacted by the new light rail line that will carry at least 200 trains per day; and

N2

Whereas the visual, auditory, and physical conditions created by the combination of freight and light rail would negatively impact the uniquely natural and tranquil Cedar Lake Park experience for users; and

O1

Whereas the Kenilworth Corridor intersects Cedar Lake Parkway, part of the Historic Grand Rounds, and freight trains coupled with more than 200 light rail trains per day would impact the experience of Grand Rounds visitors as well as automobile traffic on Cedar Lake Parkway;

S2

<u>Therefore, be it resolved</u> that the Kenwood Isles Area Association opposes the co-location of freight rail and light rail in the Kenilworth Corridor.

D

Cedar Lake Park Assn
<info@cedarlakepark.org>

12/31/2012 11:31 AM

Please respond to
Cedar Lake Park Assn
<info@cedarlakepark.org>

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

cc

bcc

Subject SWLRT DEIS comments from Cedar Lake Park Association

Please find attached the SWLRT DEIS comments from the Cedar Lake Park Assn.

Should you have trouble accessing our comments, please contact us at info@cedarlakepark.org

Thanks

Keith Prussing
President--CLPA

314 Clifton Ave
Minneapolis, MN 55403
www.cedarlakepark.org
info@cedarlakepark.org
612 377 9522

TRANSMITTAL LETTER

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

Re: Cedar Lake Park Association Comments on the Southwest Transitway Draft Environmental Impact Statement

Dear Project Manager:

The Cedar Lake Park Association (CLPA) welcomes this opportunity to comment on the Draft Environmental Impact Statement (DEIS) for the Southwest Transitway (LRT) project. It contains CLPA's issues and desired outcomes for the project relative to historical, cultural, visual, recreational, social, environmental, and safety impacts on—but not limited to—Cedar Lake, Cedar Lake Park, the Cedar Lake Regional Trail, the Kenilworth Trail and other the park and recreation resources.

In 1989, a group of citizen activists came together as "Save Cedar Lake Park." These citizen activists led the charge to create a nature park out of an abandoned rail yard at the north and east sides of Cedar Lake. Partnering with the Minneapolis Park & Recreation Board (MPRB), this group lobbied state legislators for public funding and sought private donations to turn the forty-eight acres of abandoned railroad land into a public nature park—ultimately raising one-third of the $1.6 million asking price in private contributions. Having established Cedar Lake Park in 1991, the group changed its name to the Cedar Lake Park Association and led the drive to build a world-class, non-motorized commuter trail along the edge of it. To accomplish this task, CLPA raised an additional $500,000 as a one-third match to help with the cost of building the Cedar Lake Regional Trail. Partnering with MPRB and the City of Minneapolis, it spent two years designing this award-winning trail that has become the lynchpin in Minneapolis' superb bicycle trail system. With remarkable perseverance, CLPA sustained a sixteen-year effort to complete the Cedar Lake Regional Trail to the Mississippi River.

The Mission of the Cedar Lake Park Association

1. Create and nurture a park and Cedar Lake with a thriving nature preserve and connecting trails and greenways.

2. Provide opportunities for people to learn to live in community with nature and one another.
3. Continue to foster citizen leadership and private involvement in the development and management of the park and trails.
4. Support similar efforts throughout the metro area and beyond.

Highlights of Cedar Lake Park Association's Comments

- CLPA, in general, is supportive of light-rail transit. A
- CLPA supports and advocates a grade-separated crossing of the Cedar Lake Regional Trail and the Southwest LRT. E8
- CLPA supports grade separation at the intersection of the Southwest LRT and Cedar Lake Parkway, including grade separation between the Kenilworth Trial and the parkway. E8
- CLPA does not support the co-location alternative. D
- CLPA supports MPRB's position and shares it concerns expressed in its comment letter. MPRB has noted that "current development and public use of the corridor within Minneapolis has an open and natural character that includes portions of the Minneapolis Chain of Lakes Regional Park, Grand Rounds National Scenic Byway, Kenilworth Regional Trail, and Cedar Lake Regional Trail. Park design in this area focuses on serenity, habitat restoration, minimal development, and passive recreation. To retain the area's character, the water table levels and quality, cultural landscapes, habitat, and open space must be protected and preserved." CLPA completely agrees with this statement. E2 N1 S3
- CLPA has standing to comment on the impacts of the SW LRT due to its 23 year stewardship of Cedar Lake Park, which will share a common border with the Transitway from Cedar Lake Parkway to the junction of the Transitway with the BNSF rail line at the base of the Bryn Mawr bluffs. This includes the Cedar Lake Regional Trail junction with the SW LRT, as well as the junction with the Kenilworth Trail.
- CLPA has worked jointly for many years with the Hennepin County Regional Rail Authority(HCRRA) in maintaining their contiguous properties to Cedar Lake Park, which include the transit corridor, to enhance and maintain prairies and other wildlands in a manner consistent with the management and aesthetic goals and character of Cedar Lake Park and its connecting trails, including the trail corridor passing under I-394 and continuing through downtown Minneapolis to the Mississippi River.
- Greater Cedar Lake Park, which includes Cedar Lake Park, a unit of the Minneapolis Park and Recreation Board, the Cedar Lake Regional Trail, as well as the surrounding public lands, has been awarded the designation of an Important Birding Area(IBA) by the Audobon Society. http://mn.audubon.org/important-bird-areas-3 .This has not been recognized in the DEIS, and must be studied further and protected. The nomination form at: http://mn.audubon.org/sites/default/files/documents/minneapolis_chain_of_lakes_theowirth_park_iba_nomination_form_biotics_version_0.pdf contains a far more complete study of the natural characteristics of the Transitway area than are described in the DEIS. We ask for further study and proposals for mitigation. E2 N1, N8

Thank you for this opportunity to comment on the DEIS for the SWLRT. If you have any questions, please contact Keith Prussing, President of the Cedar Lake Park Association at info@cedarlakepark.org.

Sincerely,

Keith Prussing
President—Cedar Lake Park Association

Cedar Lake Park Association
Comments to the Southwest LRT DEIS
December 20, 2012

Map courtesy of MPRB

Introduction

The Cedar Lake Park Association (CLPA) embraces public transportation as the future of urban transit. In 2008, CLPA recommended selecting a Southwest Light Rail Transitway (SW LRT) alignment that best served the common good of the people and cities in the area. It further noted that if the Kenilworth Corridor was selected, people using Greater Cedar Lake Park[1] should continue to enjoy the aesthetic of experiencing a nature park.

The alignment has now been chosen and preliminary plans are being discussed revolving around a line that would run between downtown Minneapolis to Eden Prairie. The alignment would run through Greater Cedar Lake Park alongside the Kenilworth bicycle and pedestrian trails. Within Greater Cedar Lake Park, two transit stations have been proposed. A high volume transit line with multiple stations could significantly alter the character and experience of Greater Cedar Lake Park, as well as the surrounding neighborhoods. E2

One goal of the Cedar Lake Park Association (www.cedarlakepark.org) is to preserve the natural experience for today's park users as well as for future generations. The park is a place of respite and enjoyment for lovers of flora and fauna—a natural and wild area but one mile from downtown Minneapolis. It also contains trails that serve a million visitors a year. Its bicycle and pedestrian trails connect hundreds of miles of non-motorized trails. Given the inevitable development that comes with population growth, it is imperative that we preserve the natural settings in and around Cedar Lake, while enhancing the public transit opportunities for ourselves and future generations. This dynamic poses a creative tension. S2

The Cedar Lake Park Association has developed design principles for use as a basis to discuss the Southwest Light Rail Transitway through the Cedar Lake area. These include the following:

1. Safeguard human life, protect the water quality in Cedar Lake, and enhance the wildlife habitat, habitat connectivity, and the quality of natural environment.
2. Minimize any negative impact on people's experience of Cedar Lake Park and parklands.
3. Maintain neighborhood and regional access to Cedar Lake Park, Cedar Lake Regional Trail, Kenilworth Trail, and Midtown Greenway. E2
4. Minimize the intrusiveness of permanent and temporal changes to the environment of Cedar Lake Park and parklands.
5. Mitigate unavoidable changes in the environment with investments that provide exceptional value to the goal of nurturing nature.
6. Design any and all stations that are adjacent to the Cedar Lake Park in such a way that they are compatible with a park setting and the aesthetic of the neighborhood.

[1] Greater Cedar Lake Park: On the east side and north end of Cedar Lake, a pie-shaped park area stretches from the Kenwood bluff on the east to the Bryn Mawr bluff on the north. People enjoying Cedar Lake Park or using the Cedar Lake and Kenilworth Trails experience this bluff-to-bluff area as an integral green space, and refer to it as Greater Cedar Lake Park.

Articulating the Concepts

Preliminary plans show two stations in Greater Cedar Lake Park: one adjacent to Penn Ave and Interstate 394 to service the Bryn Mawr and Harrison neighborhoods, and one near West 21st street and Upton Ave to service the Kenwood and Lowry Hills neighborhoods. Of key concern to the CLPA is how the SW LRT presents itself to the park and surrounding communities as well as how the park and surrounding communities present themselves to the SW LRT. The concepts below show how the character of the two stations differs.

E2

I2

Based on its core principles, the Cedar Lake Park Association identified several issues related to the projected SW LRT. Seeking to gain a visual representation of those concepts, the CLPA and the Bryn Mawr Neighborhood Association hosted a design charrette. There citizens from the surrounding neighborhoods extenuated these core concepts and articulated the issues surrounding the juxtaposition of parks, trails, light rail, and transit stations. Based on that discussion, noted landscape architects (see appendix) created the following designs. These designs and the narrative that accompanies them are not meant to be specific to-the-inch scale construction documents, but seek to illuminate the *issues* and illustrate the *outcomes* available using imaginative *concepts*. They are meant to be a catalyst for further discussion.

D

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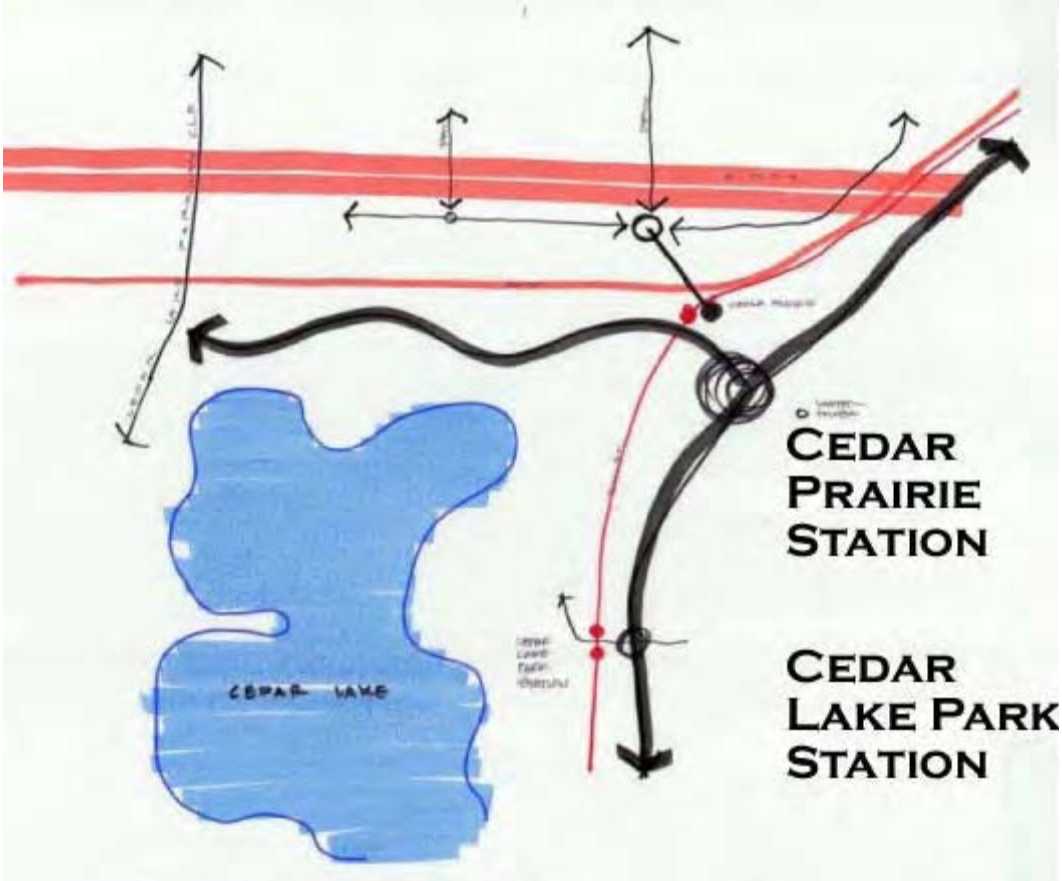


The Cedar Lake Regional Trail and the LRT Crossing Area

Comment reference: 6.3.2.4 (In Segment A, the Cedar Lake LRT [sic] Regional Trail is proposed to cross the Build Alternatives in one location: 1,200 southwest of the I-394 bridge.)

In its current alignment, the SW LRT will cross the existing *Cedar Lake Regional Trail* (CLRT) in Greater Cedar Lake Park. This intersection poses a critical challenge for creative design. The award-winning Cedar Lake Regional Trail is the first federally funded bicycle commuter freeway in the nation. The CLRT connects the western suburbs to Minneapolis and to the University of Minnesota. It also links the Kenilworth Trail, the Midtown Greenway, and the Mississippi River trails. Together, these trails form more than 100 miles of continuous off-road transit. Designed as a non-stop, flow-through commuter route, the CLRT serves as the linchpin of our country's largest, fully integrated, commuter bicycle system.

E9

At the intersection of a major motorized freeway and a rail line, no one would consider an at-grade crossing; a grade separation would be mandatory. Certainly, the same should be true at the intersection of a major non-motorized commuter freeway and a light rail line.

P9

E2

At present the CLRT intersects with the Kenilworth Trial a few yards northeast of the freight rail line. In 2011, according to the Metropolitan Council's annual visit estimates, Kenilworth Trail had approximately 624,400 visits and the Cedar Lake Regional Trail had 381,400 visits. CLPA is very concerned about retaining safe and high-quality use and access to these regional trails in this area for all users and from designated access points.

CLPA fully supports the outcomes articulated by the MPRB in section six of its comment letter:
6.2.1 **Outcome**: Walkers, runners, bicyclists, and other non-motorized trail users safely and efficiently get from one side of the LRT tracks to the other, year-round and without interruption.

6.2.2 **Outcome**: The federally funded, non-motorized Cedar Lake Regional Trail is fully functional, with uninterrupted flow and speed.
6.2.3 **Outcome**: All users have adequate access to the trails.
6.2.4 **Outcome**: All trail connections are safe and easy to navigate, and space is allowed for future expansion to meet demand.
6.2.5 **Outcome**: The Cedar Lake Regional Trail meets commuter bicycle standards of 20 mph design speed.
6.2.6 **Outcome**: Communities north of the LRT easily access the Cedar Lake Regional Trail, Cedar Lake, and Cedar Lake Park.

Concept: The Confluence

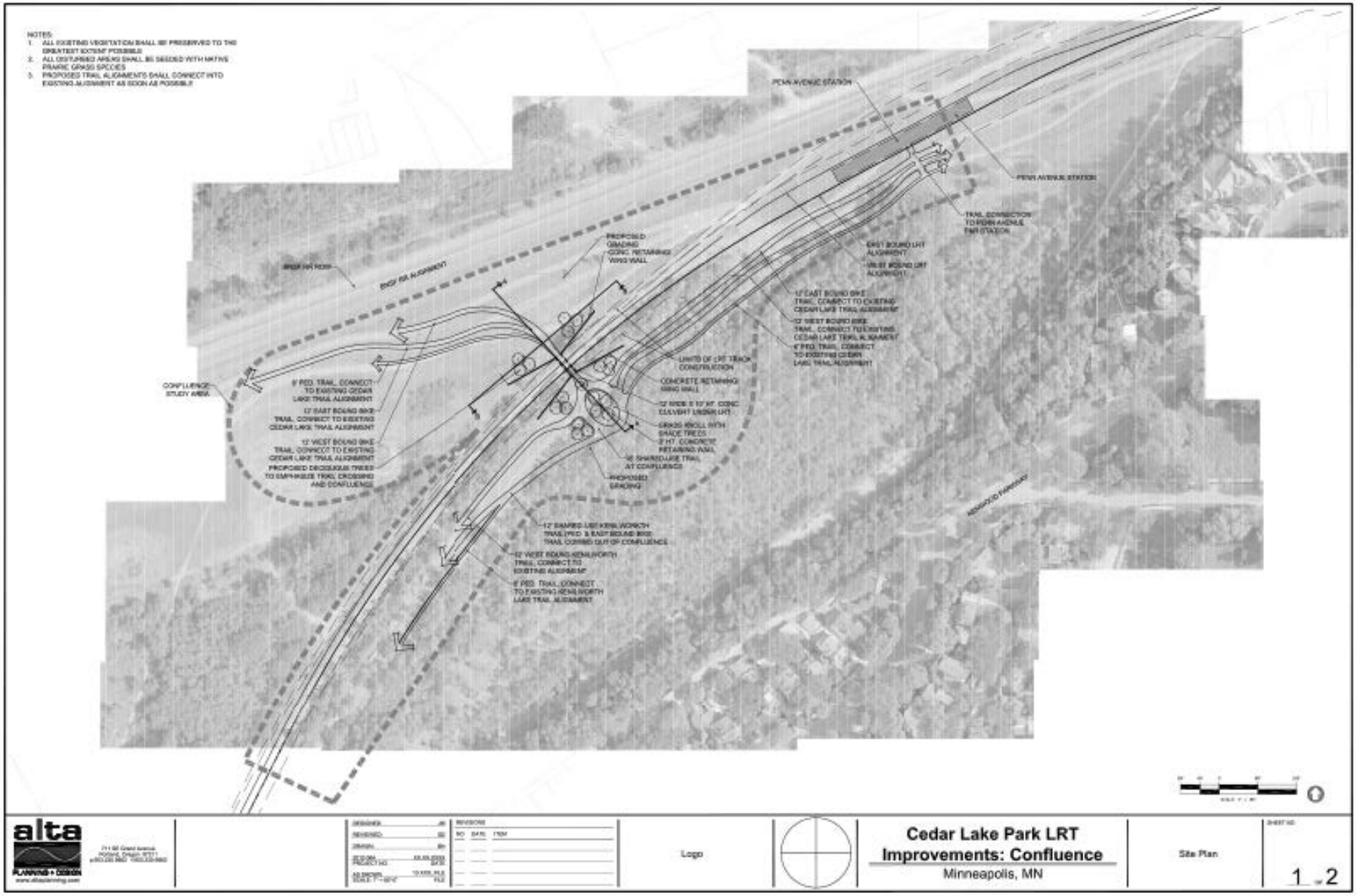
E2

E2

- Create a grade-separate crossing of trail and light rail.
- Flow the trail under the LRT including room for cross country skiing.
- Bridge the LRT over the trail.
- Link Cedar Lake Regional Trail (CLRT) to Kenilworth Trail via a roundabout.
- Access station from CLRT/Kenilworth Trails via spur.
- Ensure the safety of walkers, runners, bicyclists and other non-motorized users of the trail.
- Protect the Cedar Lake Park prairies, mitigate the LRT's impact on the park, and preserve the City of Lakes Loppet cross country ski trails.
- Eliminate pedestrian and bicycle safety issues that would occur if bicycle traffic had to cross the LRT tracks at the proposed Cedar Prairie Station.
- Promote compatibility and enhance connectivity between multiple modes of transit as well as the neighborhoods to the north and south.

Below are three supporting documents. The first is an overview sketch of the confluence. The second is a more detailed diagram and the third provides estimated costs for building.

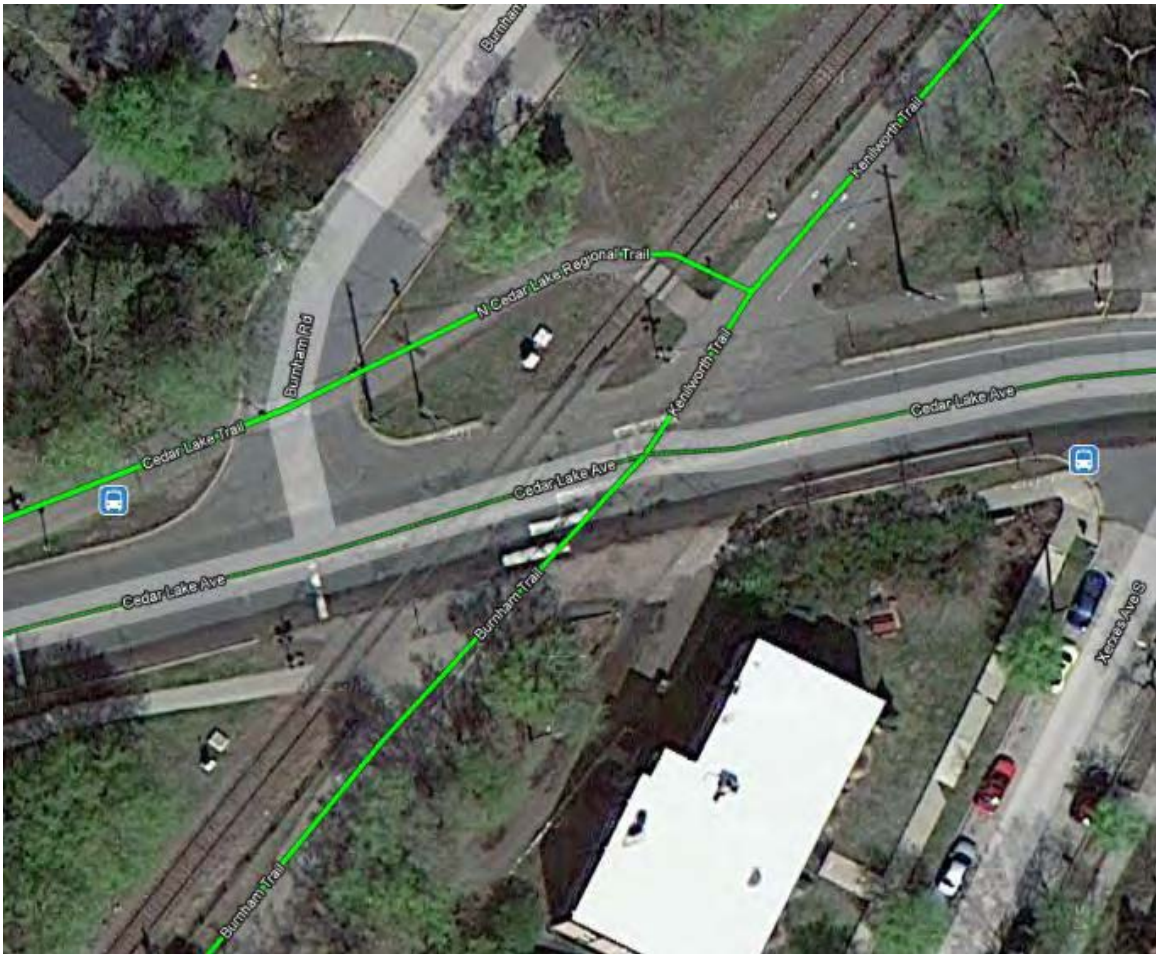
TO LAKE STREET
THE MOUND
CEDAR LAKE
KENWOOD
BURLINGTON NORTHERN SANTA FE RAILROAD
1/2 MILE
BRYN MAWR
NORTH
THE CONFLUENCE
CEDAR LAKE PARK
ALTA PLANNING + DESIGN


NOTES:
1. ALL EXISTING VEGETATION SHALL BE PRESERVED TO THE GREATEST EXTENT POSSIBLE
2. ALL DISTURBED AREAS SHALL BE SEEDED WITH NATIVE PRAIRIE GRASS SPECIES
3. PROPOSED TRAIL ALIGNMENTS SHALL CONNECT INTO EXISTING ALIGNMENT AS SOON AS POSSIBLE
PENN AVENUE STATION
PENN AVENUE STATION
TRAIL CONNECTION TO PENN AVENUE LRT STATION
EAST BOUND LRT ALIGNMENT
WEST BOUND LRT ALIGNMENT
12' EAST BOUND BIKE TRAIL, CONNECT TO EXISTING CEDAR LAKE TRAIL ALIGNMENT
12' WEST BOUND BIKE TRAIL, CONNECT TO EXISTING CEDAR LAKE TRAIL ALIGNMENT
6' PED. TRAIL, CONNECT TO EXISTING CEDAR LAKE TRAIL ALIGNMENT
PROPOSED GRADING
CONC. RETAINING WING WALL
BNSF RR ALIGNMENT
CONFLUENCE STUDY AREA
6' PED. TRAIL, CONNECT TO EXISTING CEDAR LAKE TRAIL ALIGNMENT
12' EAST BOUND BIKE TRAIL, CONNECT TO EXISTING CEDAR LAKE TRAIL ALIGNMENT
12' WEST BOUND BIKE TRAIL, CONNECT TO EXISTING CEDAR LAKE TRAIL ALIGNMENT
PROPOSED DECIDUOUS TREES TO EMPHASIZE TRAIL CROSSING AND CONFLUENCE
LIMITS OF LRT TRACK CONSTRUCTION
CONCRETE RETAINING WING WALL
12' WIDE X 10' HT. CONC. CULVERT UNDER LRT
GRASS SWALE WITH SHADE TREES
2' HT. CONCRETE RETAINING WALL
12' SHARED USE TRAIL AT CONFLUENCE
PROPOSED GRADING
12' SHARED USE KENILWORTH TRAIL (PED. & EAST BOUND BIKE TRAIL COMING OUT OF CONFLUENCE
12' WEST BOUND KENILWORTH TRAIL, CONNECT TO EXISTING ALIGNMENT
6' PED. TRAIL, CONNECT TO EXISTING KENILWORTH LAKE TRAIL ALIGNMENT
KENILWORTH PARKWAY
alta
PLANNING + DESIGN
Logo
Cedar Lake Park LRT
Improvements: Confluence
Minneapolis, MN
Site Plan
1 of 2

CLT Confluence Path + Undercrossing				
Item Description	Unit	Qty	Unit Cost	Total
Clearing and Grubbing	SF	150,000	$0.20	$30,000
Excavation	CY	3,600	$15.00	$54,000
Grading	SY	16,667	$1.15	$19,167
Erosion Controls	LF	1,800	$1.25	$2,250
Sedimentation Controls	LF	1800	$7.15	$12,870
4" base (16' width)	SF	2,880	$0.65	$1,872
4" base (12 ' width)	SF	8,640	$0.65	$5,616
4" base (6' width)	SF	2,160	$0.65	$1,404
Concrete Path (16' width)	SF	2880	$9.00	$25,920
Concrete Path (12' width)	SF	8640	$9.00	$77,760
Concrete Path (6' width)	SF	2160	$9.00	$19,440
Topsoil Shoulders	CY	1210	$50.00	$60,500
Retaining Walls	LF	234	$500.00	$117,000
Light Rail Bridge (32' wide)	LF	50	$7,500.00	$375,000
Estimated Direct Cost				$800,000
Contingency (unforeseen costs)		25%	**$200,000**	$1,000,000
Design & Engineering		20%	**$200,000**	$1,200,000
Construction Overhead & Mobilization		15%	**$180,000**	$1,380,000
Construction Engineering & Administration		10%	**$138,000**	$1,518,000
Total Construction Costs				$1,518,000

* Note: planning level estimates do not include ROW acquisition costs; costs for potentially required bridges or retaining walls; or costs for amenities including lighting, benches, bicycle parking, interpretive kiosks, etc.

Cedar Lake Parkway



Google Maps 2012

Cedar Lake Parkway has a long history as a strategic connector in western Minneapolis. As early as the 1880s, the Minneapolis Park and Recreation Board recommended acquiring property along the west and south side of Cedar Lake as part of what came to be known as the Grand Round National Scenic Byway. The final section, from Cedar Lake to Dean Parkway, was not acquired until the 1920s. At that time, Theodor Wirth recommended a grade-separated crossing of Cedar Lake Parkway at the rail intersection: a good idea then and now.

CLPA is concerned, as is the MPRB, about LRT impacts on the Kenilworth Regional Trail and Chain of Lakes Regional Park users and properties that contribute to the Grand Rounds Historic District. In 2011, according to the Metropolitan Council's annual visit estimates, Kenilworth Regional Trail had approximately 624,400 visits and the Chain of Lakes Regional Park had 5,122,900 visits (Chain of Lakes estimate does ***not*** include motorized or non-motorized traffic counts on the parkway). Cedar Lake Parkway, as part of the Grand Rounds Historic District, is considered eligible for the National Register of Historic Places (7.4.1.4 page 7-20).

S4

E2

The anticipated frequency of trains along the corridor will also increase potential conflicts between the trains and users of the trail parallel to Cedar Lake Parkway, thus raising serious safety concerns.

The DEIS makes several references to this issue, including the following:

- 7.4.1.4 Section 4(f) Properties Potentially Used by the Project, page 7-20: Cedar Lake Parkway and the Cedar Lake-Lake of the Isles Channel have been determined eligible for inclusion on the NRHP as part of the Grand Rounds Historic District.
- 3.4.5.3 Cultural Resources, page 3-79: Potential long-term effects may occur at the following properties: Cedar Lake Parkway, Grand Rounds (potential effects of the changes to the intersection of the LRT corridor with the historic parkway, including the LRT overpass bridge, and, under the co-location alternative, the effects of widening the trail/rail corridor; these changes may affect the parkway itself and may alter its setting.)

The Cedar Lake Park Association fully supports a MPRB's position in its comment letter (9.2.1 on page 25):

> 9.2.1 Statement: The MPRB conducted a preliminary feasibility study of a grade-separated crossing at this intersection, which revealed that lowering the tracks and trail, and bridging portions of the parkway would allow the train and trail to travel beneath the parkway (see Appendix A of MPRB's comment letter for illustrations). The MPRB recommends further exploration of this type of integrated solution that significantly reduces safety hazards, noise impacts, visual impacts, and delays for motorized and non-motorized vehicles."

E8 S3

N1

CLPA fully supports the following outcomes from the MPRB comment letter:
9.2.2 **Outcome**: The Grand Rounds (eligible for National Register of Historic Places) fully retains its integrity and intention.
9.2.3 **Outcome**: Motorized and non-motorized vehicles and pedestrians along the trail parallel to Cedar Lake Parkway experience continuous and safe flow.
9.2.4 **Outcome**: Trail users have direct access to the trails and trail connections that are currently provided at this location.
9.2.5 **Outcome**: Recreational and commuter trail traffic on both the Kenilworth Regional Trail and the trail parallel to Cedar Lake Parkway follows substantially the same route as at present.
9.2.6 **Outcome**: The view of and from Cedar Lake and surrounding parkland is preserved.
9.2.7 **Outcome**: The parkland around Cedar Lake remains a natural visual buffer between Cedar Lake and the LRT corridor.

P9

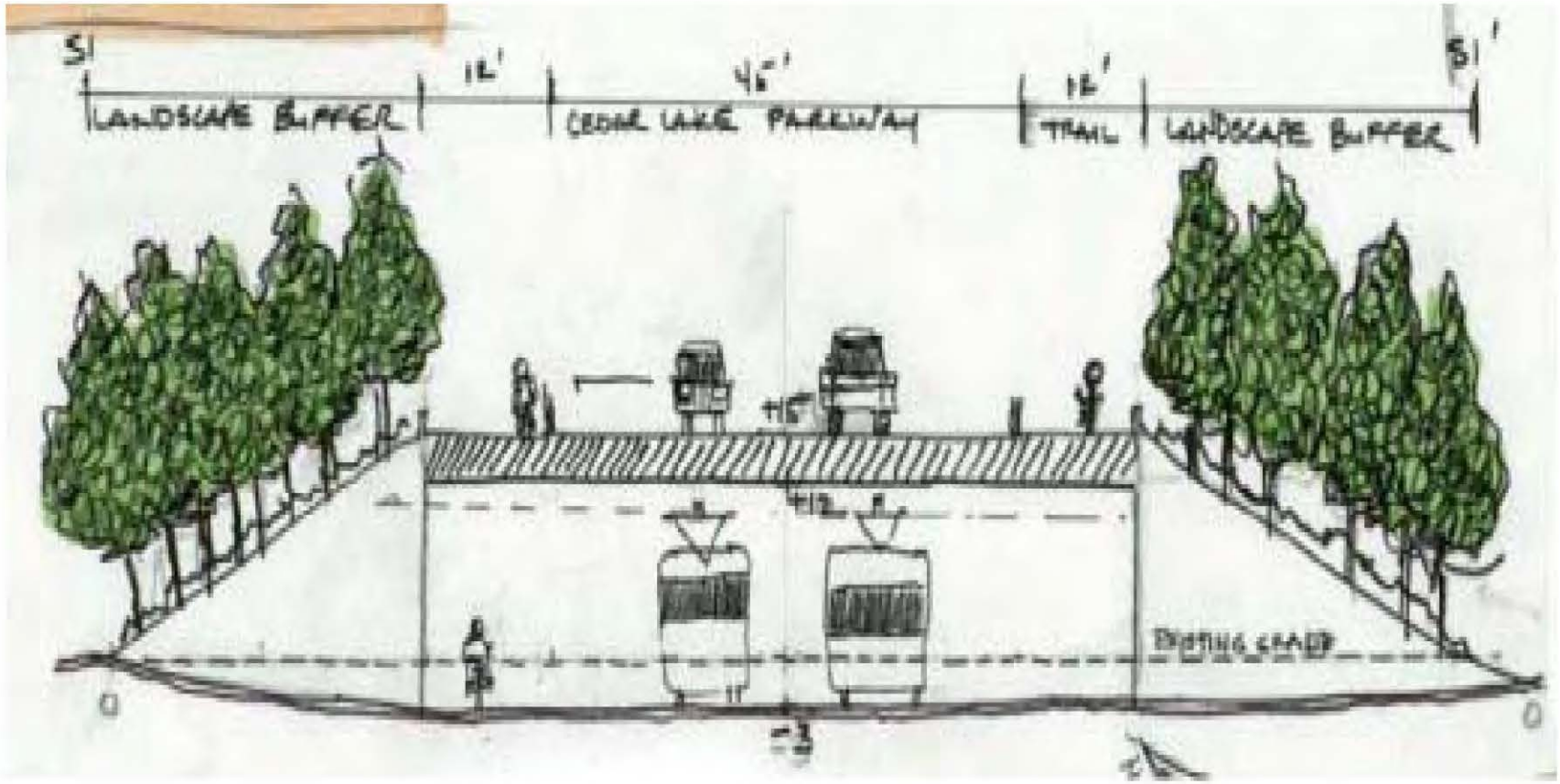
Concept:

- Grade-separated crossing of LRT and Cedar Lake Parkway/Grand Rounds.

Below are drawings of what such a grade-separated crossing might look like. E0

CEDAR LAKE
CEDAR LAKE
BURNHAM
LANDSCAPE BUFFER
CEDAR LAKE
PARKWAY
NATIONAL SCENIC BYWAY

Here is a cross section of the design.



The Cedar Prairie (Penn Ave) Station

The proposed Cedar Prairie (Penn Ave) Station will service the Bryn Mawr, Harrison, Kenwood, and Lowry Hill neighborhoods, as well as users of the trail system connecting to the Cedar Lake Regional Trail, the Luce Line Trail, and Kenilworth Trail. Any station on this site should promote safe access and connectivity between the north and south, as well as east and west. In addition, the Bryn Mawr neighborhood looks favorably at commercial development along the northern strip of Wayzata Boulevard. I2

DEIS reference 3.2.2.6 (Neighborhood Cohesion): CLPA supports the Bryn Mawr Neighborhood Association (BMNA) and its comments concerning the proposed Cedar Prairie (Penn Ave) Station and its beneficial effects for reuniting a neighborhood torn asunder by the construction of I-394. The station (as well as the Van White and Royalston stations) are also key to enhancing environment and social justice **(DEIS reference 10.0**) by promoting reverse commuting from the near north and north sides of Minneapolis out to suburban work sites. E2 M5

Issues M3

- Disruption of access and connection between northern and southern neighborhoods.
- Negative impact on public access to trail system, (e.g., Cedar Lake Regional Trail, Kenilworth Trail) from Bryn Mawr and Harrison neighborhoods. E7 N2
- Visual site pollution in respect to surrounding prairie land.

Outcomes

- Facilitate commuting to downtown Minneapolis and further east as well as reverse commuting to the commercial areas in the southwest suburbs.
- Reconnect the neighborhoods north of I-394 to those to the south.
- Provide commercial stimulus to the areas on the northern ridge adjacent to the station. M3
- Provide bicycle and pedestrian-friendly access to station from surrounding community. E10
- Enhance transit opportunities for the north side neighborhoods.
- Enhance access to the Cedar Lake and Kenilworth Trails for bicyclists and pedestrians.
- Create architecture (i.e. station) at the edge of the prairie that would minimally impact the viewshed of the surrounding prairie land or might even enhance it.

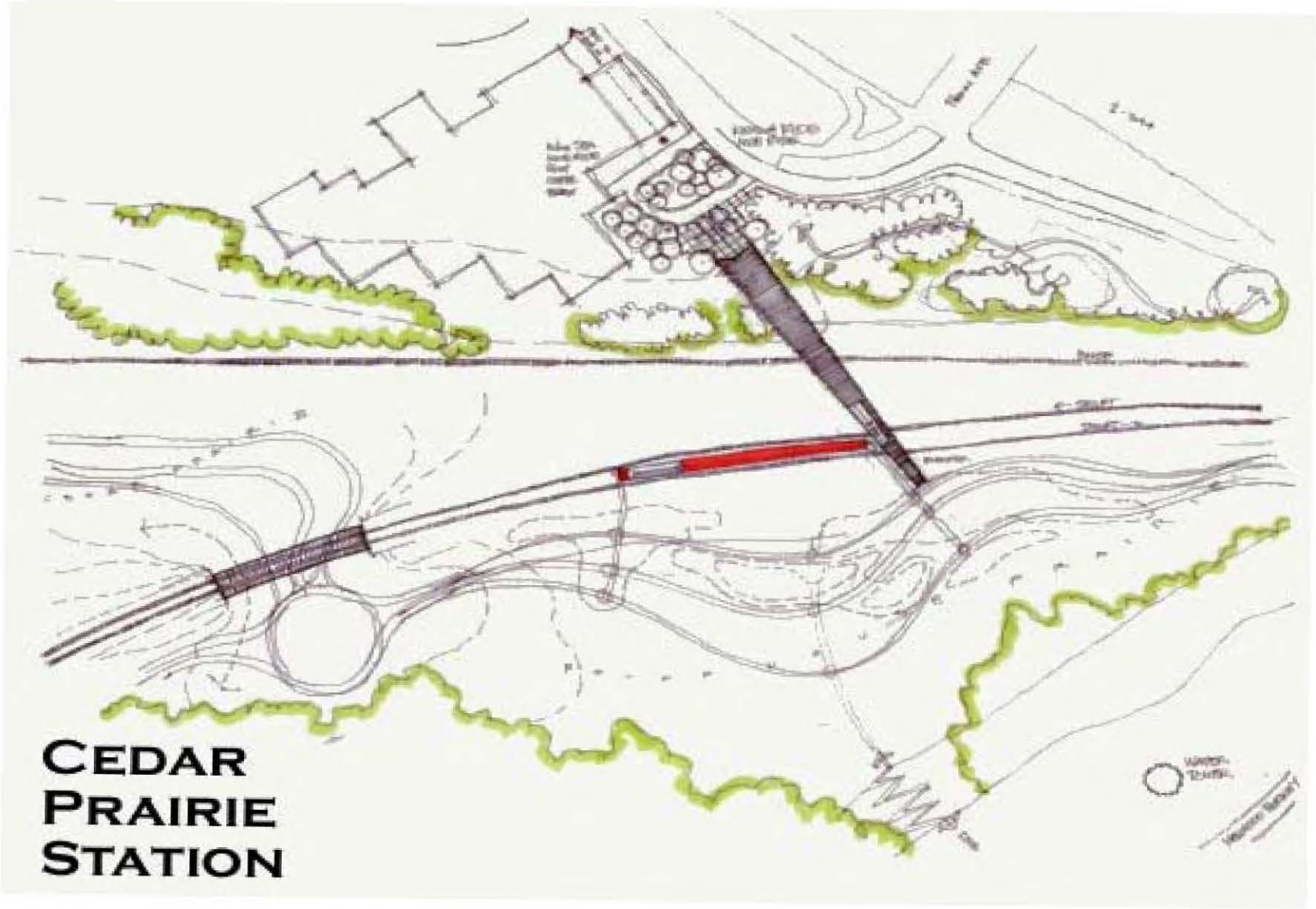
Concept: 'Bridging the Neighborhoods'

- Beautifully designed bridge traverses prairie from 'kiss and ride' drop-off area to Prairie station: aligned with Lowry Hill water tower. Bridge ramps down to an elevator at the station to provide access to the platform to the south and to Cedar Lake Regional Trail.
- Bridge narrows as it moves toward Lowry Hill. Narrowed perspective de-emphasizes its scale and focuses connection of prairie edges. I2
- Bridge could provide observation points (belvederes) along it and focus view of downtown with plantings, which would also break up horizontal axis across the prairie.
- Formal park access off of Penn Avenue with 'kiss and ride' drop-off, bus access, pedestrian sidewalk and access to park via bridge.
- Ramp from prairie to bridge provides access for bicyclists/pedestrians to station /trails.
- Pedestrian and bike access continues west to Kenwood Parkway, linking north and south.
- Potential trail connection up Lowry Hill with link to Douglas.

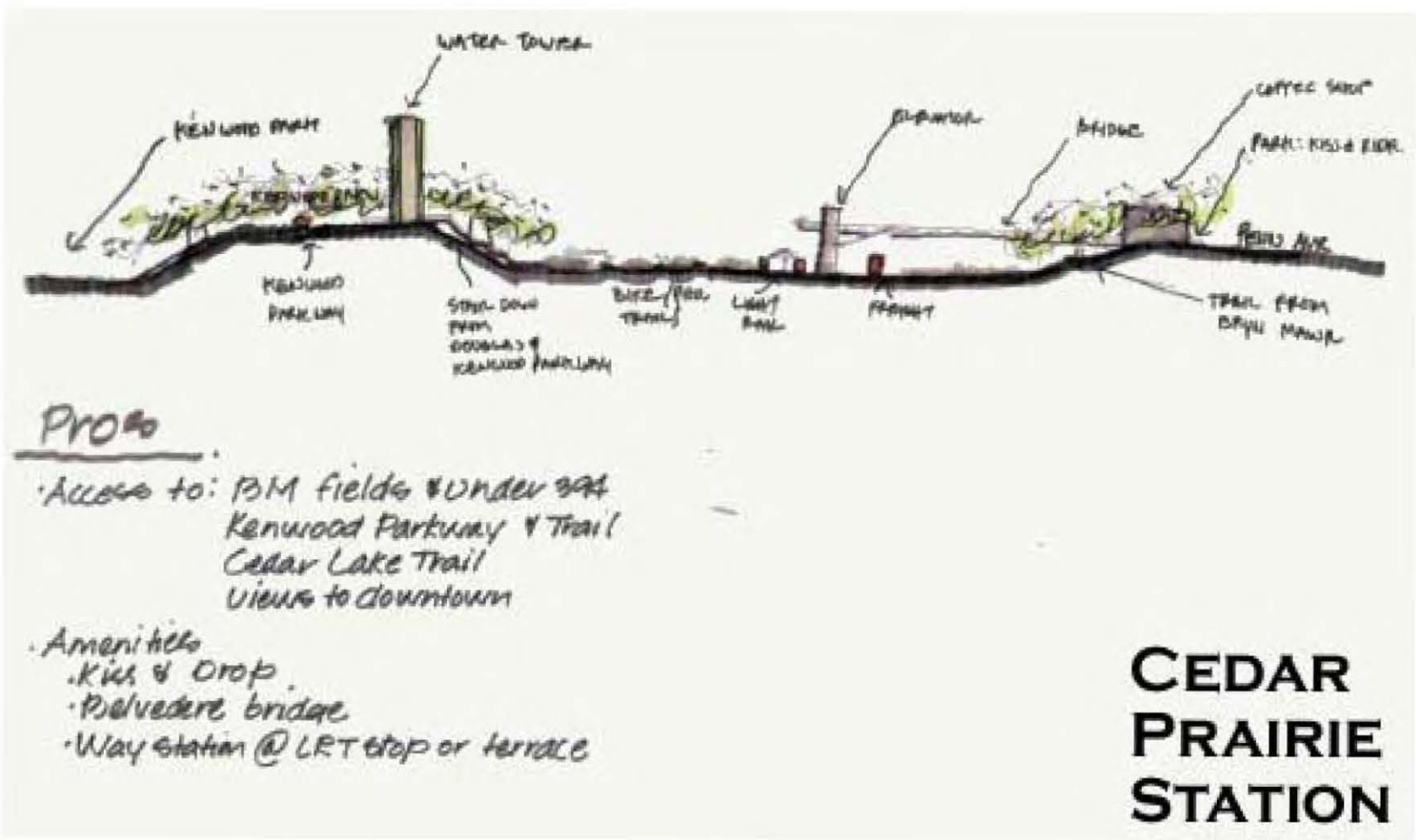
- Woodland Park at Lowry Hill base could be incorporated with bicycle/pedestrian trails.
- Commercial/residential development at top of north slope linking to downtown Bryn Mawr.
- Increased public access on Penn Ave and Cedar Lake Road, encouraging use of public transportation and acting as a calming device on these arteries through the neighborhood.

M1

Below are designs that show how these goals can be accomplished.


CEDAR
PRAIRIE
STATION

This cross cut drawing shows some of the connections can be made and some of the aesthetic considerations:



Cedar Lake Park Station (W 21st Street and Upton Ave)

This station—if built—would service primarily the Kenwood and Lowry Hills neighborhoods, as well as serve as an entry point to Cedar Lake Park and East Cedar Lake Beach. The area around the station has had a long history of recreational and commercial use. The main Minneapolis & St. Louis Railway Shops and Yards were just the north, while for much of the first half of the twentieth century, boating recreationalists used Dingley's Docks (just to the west of Upton) to launch their cruises.

This location is the sole access point for Cedar Lake Park and beach. Visitors arrive at this pristine area on foot, by bicycle, and using motorized vehicles, and via 21st Street, the Kenilworth Regional Trail, and in the future the LRT. Given that "Implementation of LRT service and stations along the Segment A alignment would likely result in some land use changes surrounding the stations…" (**DEIS reference: 3.1.5.**1), the natural character of this area and clear access must be ensured.

I2

Issues

- Visual and auditory impact of LRT and station on neighboring residences.
- Loss of corridor character, including habitat and woodland values.
- Traffic congestion at 21st St. intersection.
- Potential for parking and idling congestion by commuters and beach users.
- Emergency access to stations and to beach.
- Concerns about commercial development in residential neighborhood.

E2 N2 O1 P10 S2 M1

Outcomes

- Minimize visual and auditory pollution amid quiet residential neighborhood.
- Provide safe access to the lake from surrounding neighborhood and trail corridors.
- Emphasize a natural setting by plantings along the corridor to enhance its park-like character and provide opportunities for appropriate recreation.
- Blend the site into the surrounding park and neighborhoods by plantings and berming, as well as architectural station design that emphasizes its bucolic setting.
- Preserve and enhance the primary eastern access to Cedar Lake Park.

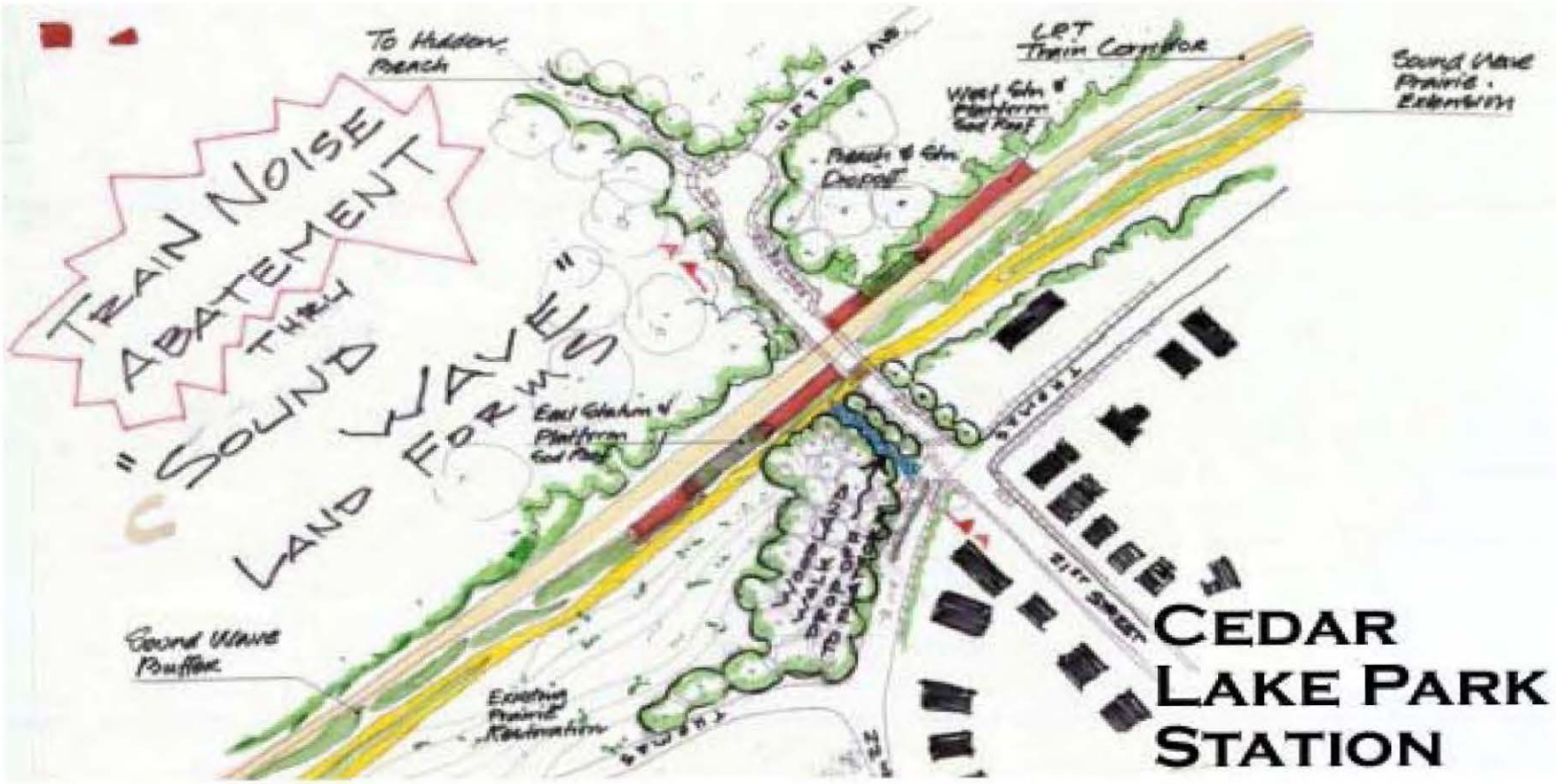
Concept: The 'Four-way' Stop

- Develop split on-grade platforms on the northwest and southeast sides of W. 21st Street.
- Split platforms would slow the trains as they cross W. 21st. This street accesses a residential neighborhood beyond, as well as the main eastern entrance to Cedar Lake Park. Presently, many cars and people cross the track daily in both directions. With the trains slowly accelerating as they cross the street, safety is enhanced, and gates and horns may be unnecessary. .
- Develop 'sound-wave' land forms (berms) along the sides of the track to abate train noise, screen trains, infrastructure, and station from neighboring houses and strengthen existing landscape character. Minimize light pollution with proper direction and shielding. Sculpt terrain to restore woodland vegetation and create an esthetic that pulls the surrounding park into the corridor.
- Design stations to reflect historic nature of the site as early commuter station (Kenwood Depot) or designed as part of the sound wave concept (e.g. undulating planted roofs).

I2

O1

- Small auto drop-offs would be developed on east and west sides of the 21st street intersection: The west side of Thomas would be widened to accommodate 12 'kiss and ride' drop-off spaces. An unpaved pedestrian trail through the existing woods would connect riders with the platform.
- A similar drop off would be developed on the north side of 21st. west of the intersection, along with a small 'knuckle' turnaround serving both LRT station and Hidden Beach users.
- Develop the county land around station into a natural area with wildlife trails, native plantings, and habitat enhancement.


To Hudson Beach
LRT Train Corridor
Sound Wave Prairie Extension
West Side Platform Sod Roof
Beach Side Depot
TRAIN NOISE ABATEMENT THRU "SOUND WAVE" LAND FORM
East Side Platform Sod Roof
Sound Wave Berm
Existing Prairie Restoration
CEDAR LAKE PARK STATION

Pros

- Split Platforms - quiet, safe crossing
  4-way stop
- Sculpted terrain - landscape acoustics
  - recreation use
- On street pullout/drop off
- No parking lot(s)
- Maintains & enhances woodland & prairie character

SECTION A-A'

CEDAR LAKE PARK STATION

Kenilworth Canal

The Kenilworth Canal is a body of water created in 1913 to connect Cedar Lake and Lake of the Isles and complete the Minneapolis Chain of Lakes. The canal is used all year for recreational purposes from boaters and fisher-people in the summer to skiers in the winter. The canal also provides wildlife access. With no motor vehicle access, this area is remote and secluded, open only to bicyclists and pedestrians using the Kenilworth Trail.

According to the DEIS (3.6.3.3) …the bridge design, bank treatment, and aesthetics for the new facility and the potential replacement or modification of the existing pedestrian bridge would have a substantial effect on this historic landscape… In addition, (3.4.5.3) …Potential long-term effects may occur at the following properties: Kenilworth Lagoon/Channel, Grand Rounds (potential effects of the construction of new bridge structures within the historic district; the design and footprint of these structures may affect the banks of the historic channel and may affect the district's overall feeling and setting).

E2 N2 S3

Issues

- Constriction of Kenilworth Trail.
- Obstruction of access to the canal.
- Disruption of uniquely quiet and tranquil space.
- Disruption of wildlife corridor.

Outcomes

- Maintain access and viability of the Kenilworth Trail.
- Maintain access between Cedar Lake and Lake of the Isles.
- Maintain wildlife corridor.

Concept: 'The Secluded Canal'

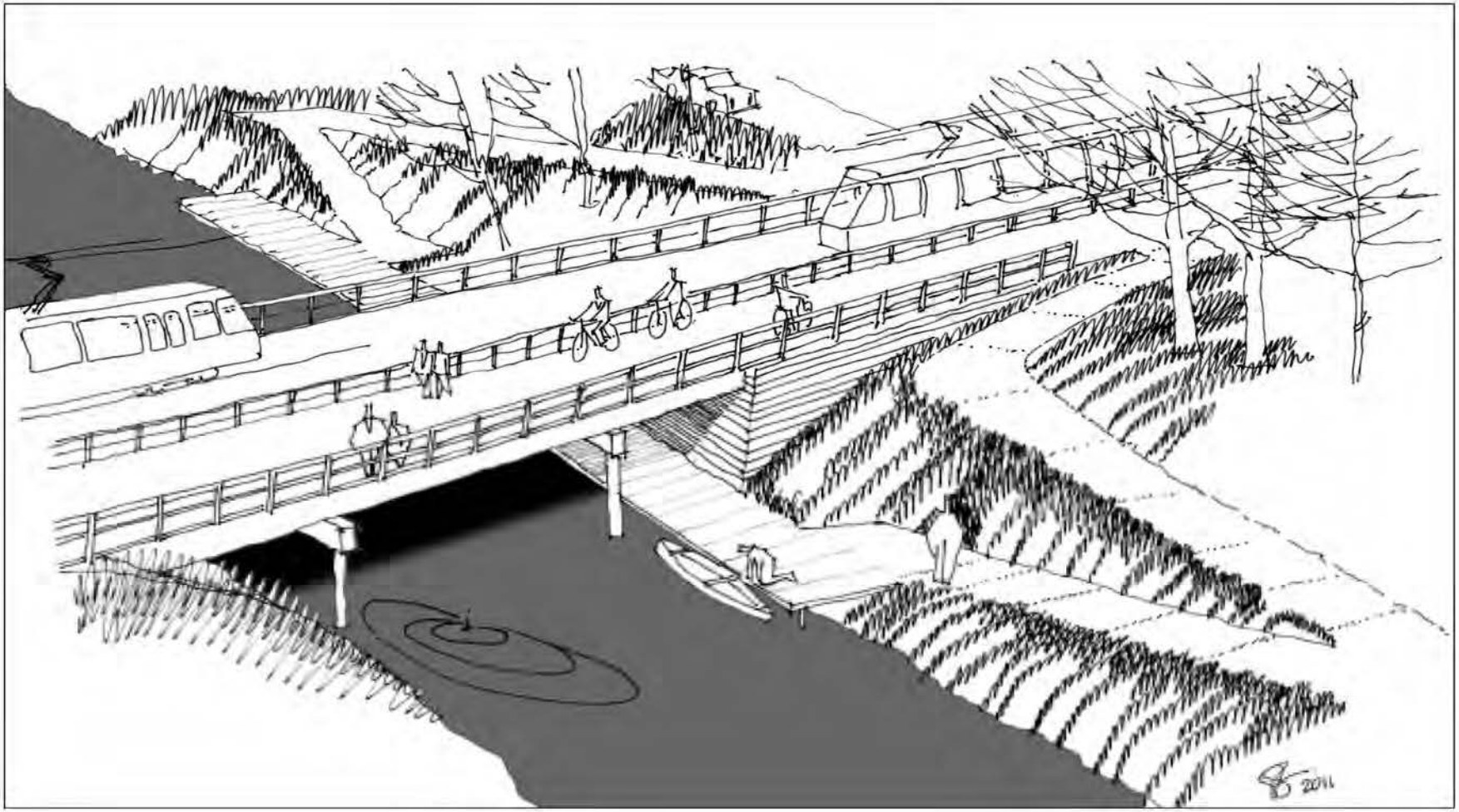
E4

N1, N2

- Create "country-like" bridge.
- Develop access to boat landing below.
- Maintain viability of Kenilworth Trail.
- Enhance surrounding woodlands with plantings.

Below is a concept drawing of what such a place might look like.

The Secluded Canal



O1

In the DEIS, Cedar Lake Park, along with some of the surrounding neighborhoods, is classified as Category 3 for noise impact purposes. CLPA supports the Minneapolis Park and Recreation Board position that the park should be upgraded to Category 1, and all noise impacts from the Transitway must be mitigated accordingly. E4

Nowhere in the DEIS has the impact of Transitway lighting, both continuous and intermittent, on the parklands, surrounding neighborhoods, and flora and fauna been considered. We believe more detailed study and proposals for mitigation is warranted. N4 N8

Summary

Cedar Lake Park is known as the 'natural' lake within the city's Chain of Lakes. Station area and route planning in Greater Cedar Lake Park should encompass the entire length of the corridor to ensure that accessibility, safety, and the natural aesthetic along its length is maintained. Careful and creative planning, as well as mitigation, along Minneapolis' Kenilworth/Cedar Lake Regional Trail corridor will help promote safe, accessible transportation along the transit corridor and ensure that the unique character of this park and parkland is preserved and protected now and for future generations. E2

Thank you for this opportunity to comment on the Southwest LRT Draft Environmental Impact Statement,

Cedar Lake Park Association

Appendix:
Landscape Architects
Participating in the CLPA/BMNA
Southwest LRT Design Charrette October 2010

- Steve Durrant, landscape architect, Alta Planning + Design, Portland
- Chris Carlson, landscape architect, charrette facilitator, Portland
- Roger Martin, landscape architect, professor emeritus, University of Minnesota
- John Koepke, landscape architecture, professor, University of Minnesota
- Antonio Rosell, civil engineer and urban designer, Community Design Group, Minneapolis
- Tony Chevalier, landscape architect, Minneapolis
- Nate Cormier, landscape architect, SvR Design Company, Seattle
- Tom Meyer, architect, Meyer Scherer & Rockcastle, Minneapolis
- Craig Wilson, landscape architect, Sustology, Minneapolis, Lowry Hill
- Rick Carter, architect, LHB, Minneapolis, Bryn Mawr
- Charlie Lazor, architect, Lazor Office, Minneapolis, Kenwood

Stuart A Chazin
<Stuart@chazingroup.com>
12/31/2012 11:44 AM

To swcorridor <swcorridor@co.hennepin.mn.us>
cc "Thomas L. Johnson" <Thomas.Johnson@gpmlaw.com>
bcc
Subject DEIS regarding the proposed SWLRT

To whom it may concern
Attached is my response to the DEIS proposed SWLRT

Thank you

SAC
The Chazin Group, Inc.
Stuart A Chazin
Broker / President
Lake Pointe Corporate Centre
3100 West Lake Street, Suite 230
Minneapolis, Minnesota 55416
952-928-9915 - O
612-991-5694 - C

Stuart@chazingroup.com
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NEW OFFICE ADDRESS
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Stuart A Chazin
2615 Burnham Road
Minneapolis, Minnesota 55416-4335
612-991-5694

==========

To: Southwest Transitway Project Office
swcorridor <swcorridor@co.hennepin.mn.us>

From: Stuart A Chazin

Date: December 31, 2012

Re: SWLRT

To Whom It May Concern:

I have many concerns with the Draft Environmental Impact Statement (DEIS) regarding the proposed SWLRT.

The propose LRT bridge over Cedar Lake Parkway would impact the surrounding neighborhood significantly. It would have a substantial visual impact where it would be seen for miles and would destroy so much of the beauty of the area. In addition, the DEIS does not make any assessment of the potential noise & vibration impact it would have on the surrounding neighborhoods. E8

Cedar Lake Parkway is a part of the Grand Rounds Historic District, which is eligible for the National Register of Historic Properties. Consequently, the study does not address (nor even seem concerned) about preservation of the historic landscape and the impact of light rail on the area. E2

The DEIS has not done a sufficient analysis of the potential measures to mitigate the visual and noise impact caused by the bridge nor any assessment of tunneling underneath the Parkway as a viable alternative. E8 S3, S4

The DEIS identifies the 21st Station as a "park and ride" site with parking for 100 vehicles and 1000 daily LRT boarding's. I am unclear as to "who" will be parking at this station? The resident's in the area will not need the station and have strongly come out in opposition to it. Anyone coming from other areas of Minneapolis would have to drive thru neighborhood's where children play, family's walk their pets, etc. This will cause a safety issue, which has not been considered, needless to mention the neighborhood becomes a "parking lot" for people who do not live in the neighborhoods. I2 E2, E10

I do not believe the DEIS has properly assessed the impact of the LRT specifically on the Kenilworth Corridor. We have deer, birds, possum, fox, coyote, rabbits (just to name a handful) and the wildlife is part of what makes this area serene. What will be the LONG TERM effect that the LRT will have on these species? N8

This corridor is one of the "gems" of the city of Minneapolis. People have chosen to live in this area for the beauty and serenity it offers. People come from all over the state to use the trails, lakes, beaches and overall parkland. If the lakes and parklands of Minneapolis are considered our great treasures, the LRT is a destructive force that has long-term effects that cannot be "undone". While I am not questioning the importance of light rail – I question the location of this specific one and believe there are viable and better alternatives that have been passed up simply due to financial and political reasons. Just because you "can" put it here, doesn't mean you "should". E0

I would offer that the DEIS must study the alternative measure of TUNNELING the trains through this corridor into Downtow as a viable and acceptable measure to those concerned. Without these studies and facts, it would be a study left undone. E0

Thank you for your consideration in this very important matter.

Sincerely,

Stuart A Chazin

Sue Bombeck
<SBombeck@TCWR.NET>
12/31/2012 11:52 AM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc Mark Wegner <MWegner@TCWR.NET>
bcc
Subject Twin Cities & Western Railroad - additional letter of support - DEIS Response

Good afternoon –

Attached you will find a letter we received after submitting our response to the DEIS. Please include this letter of support with our response.

Thank you

Sue Bombeck

Sue Bombeck

Twin Cities & Western Railroad

Office Manager

Office – (320) 864-7201

Cell – (612) 655-3401

L & N Transportation Consulting Services
10337 Normandy Crest
Eden Prairie, MN 55347
952 - 944-0088
fax: 952 - 944-3923

December 26, 2012

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

We, the L & N Transportation Consulting Services, LLC depend on the Twin Cities & Western Railroad Company (TC&W) for economical freight rail transportation. We, the L & N Transportation Consulting Services, LLC 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 L & N Transportation Consulting Services, LLC 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 L & N Transportation Consulting Services, LLC. C

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

1.) Do engineering for the reroute that meets TC&W's engineering standards, C G1
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, o G2 G2
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. C C

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

Sincerely,
Lee Larson

L & N Transportation Consulting Services, LLC

Pat Mulqueeny
<pat.mulqueeny@epchamber.org>
12/31/2012 12:00 PM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc Pat Mulqueeny <pat.mulqueeny@epchamber.org>
bcc
Subject SWLRT

On behalf of the Eden Prairie Chamber of Commerce and it's over 500 members, I want to comment on the proposed alignment of the Southwest Light Rail in Eden Prairie and the DEIS. When the county finally settled on the current proposed alignment, many of our businesses and members were concerned with a number of the at-grade crossings and the potential negative impacts the alignment may have on local businesses. Some of these have been highlighted in comments at the public hearings and include:

There are a number of at-grade crossings and other issues that concern us in the current alignment that we would request additional review.

1. Valley View Road near Flying Cloud Drive – this proposed at-grade crossing is on one of the busiest roads that serves the business community. The city of Eden Prairie recently updated an intersection to the southeast of this location to help reduce congestion. By having an at-grade crossing here, it will be a major negative impact and create safety issues and congestion with local traffic patterns. Traffic analysis included in the DEIS indicate failing operations along this corridor. F0 P3
2. Technology Drive – The Chamber and a number of our local businesses have spoken out against this part of the alignment because of two major issues. The first is that Technology Drive has become a major thoroughfare for traffic in Eden Prairie. It is a major local artery that connects Flying Cloud Drive and Prairie Center Drive, it has major local employers and an electric sub-station that serve this area. Having an at-grade crossing on Technology Drive in this location would have major negative impacts to local traffic patterns and the businesses in this area. The proposed alignment crosses two employers only access points to their business and thus would be major impediments to their facilities, plus the impact that train vibrations may have on their facilities. In considering a different location/alignment, we would request that the location consider the impact on local businesses in regards to impeding access to their properties/business. An additional concern is that this location needs to consider adequate parking to avoid potential overflow parking issues with businesses. F0 P4 F0
3. Mitchell Road – This is a major roadway and access point for businesses and local traffic for Eden Prairie. Having an at-grade crossing here will have negative impacts on traffic patterns in this area, plus additional traffic generated by the station will increase congestion. We would ask that additional review of this at-grade impact and increased traffic be reviewed and addressed. F0
4. Southwest Transit Station – the current Southwest Transit bus service has served Eden Prairie and the surrounding communities extremely well – winning numerous awards and accolades. The current parking ramp and future LRT station here need to consider the parking issues that are currently there, plus future issues that the SWLRT would bring- namely the shortage of parking for a number of the businesses already located there, the impact of building additional ramp space may have on the restaurants and their parking, plus the increased traffic on the current roads. I1 P10

As the Chamber has been involved with discussions surrounding the proposed light rail line and have been a conduit for business involvement in the SWLRT process, we had hoped to eliminate any issues

the alignment would have with businesses, traffic patterns and other negative impacts to the Eden Prairie community. We realized that we might not be able to eliminate all issues, but that we should be able to eliminate any that create a large negative impact. We would ask that the Chamber and the business community be included in meetings prior to final plans being approved that consider the impact of the at-grade crossings on local traffic patterns and businesses, station locations being thoroughly reviewed to be sure they allow adequate parking and minimize potential overflow parking issues on private properties, that construction impacts on businesses be coordinated with the business community so an adequate plan can be implemented to reduce the negative impacts on commerce and traffic. The Chamber and the business community look to help the project meet its objectives while at the same time reducing negative impacts locally.

M2

I2

P10

L1

Thank you for your consideration.

Sincerely,

Pat MulQueeny, IOM
President

"GlenNiece Kutsch" <glenniece@autosourcemn.com>
12/31/2012 12:10 PM

To <swcorridor@co.hennepin.mn.us>
cc
bcc
Subject DEIS comments

On behalf of:
Auto Source Holdings
1840 Edgewater Place
Victoria, MN 55386
and
Auto Source, Inc.
7980 Wallace Road
Eden Prairie, MN 55344

RE: Comments related to Southwest Transitway Draft Environmental Impact Statement
As an owner of the property located at 7980 Wallace Road, Eden Prairie, and officer of the corporation currently operating out of the property, I would like to take this opportunity to comment on the Southwest Transitway light rail proposal. Under the current proposals being considered, the light rail project could have a large negative impact on both our property and business operation. We purchased this property approximately 3 years ago and invested in renovations needed to improve the building for our operation. For a small business, it is an extremely costly to undertake such a project, as well as the physical relocation of the business. While the light rail plans at the time leading up to our purchase of the property did not appear to affect the property, we have since learned that the entire property could be affected by the possible location of Operation and Maintenance facilities. We would request the location of these facilities be reconsidered for some of the following reasons, among many others:

M2
F0
H1

- Cost of relocation – After moving to this location just three years ago, we have still not recouped the cost involved in our first move. It would be extremely detrimental to our business to have to relocate yet again.
- Zoning challenges of relocating our type of business – The City of Eden Prairie only allows automobile dealerships in Industrial Zones, even though the business of car sales is retail in nature and all of our vehicles are located indoors so as not to cause any aesthetic issues with the neighborhood. It is difficult to find a location within industrial areas that is:
    - The right size for our needs
    - Physically appealing to our high-end retail clientele yet affordable for us
    - Conveniently located and easy to access
- Building Codes and Regulations – When building or modifying a property, there are many changes in codes with which owners must comply that existing businesses do not have to undertake. For example, we were required to put screens around HVAC units on the rooftop of our current building at a cost well above $10,000 even though n one of the neighboring buildings have screens. This is just one example of costs that are

M4
M4

often not obvious and not foreseeable until well into the renovation process but can jeopardize the entire budget of a project.

- Access to business during construction – Our current location has one challenging access issue already (Wallace Road can be accessed from Hwy 212 going East but not West and cannot be accessed directly from Hwy 5). However, potential customers may not be willing to attempt to re-navigate if access is further restricted due to construction of light rail, resulting in lost business.

M2

F0

While we are not opposed to the light rail project in general, we would object to the project imposing on the Wallace Road area due to the detrimental effect on our business and property.

F0 M2

Thank you for your consideration.

Sincerely,

GlenNiece Kutsch

Auto Source, Inc.

Auto Source Holdings, LLC

zelda Curti
<z.curti@rarovideousa.com>
12/31/2012 12:10 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject 2024 thomas and the light rail

E4

M4

I am writing to complain about the proposed light rail through my backyard. Overall i am for public transportation but this area is so beautiful and the wild life so rare for a city that it really would be detrimental to have this line go through here at such frequency and velocity. Not to mention my property value plummeting. If there was some form of compensation for the drop in value this line might pose to my property then it might be more accepted. But it is not fair for those of us who might loose the nature and tranquility and value of our properties- just unethical.

Zelda Thomas Curti
2024 thomas ave s
minneapolis mn 55405

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RaroVideo's eclectic approach aims to publish quality works found in the cinema and visual art world.

Sue Bombeck
<SBombeck@TCWR.NET>
12/31/2012 12:13 PM

To "swcorridor@co.hennepin.mn.us" <swcorridor@co.hennepin.mn.us>
cc Mark Wegner <MWegner@TCWR.NET>
bcc
Subject FW: CHS letter to Hennepin country re: Proposed TCW re route

Good afternoon –

Attached is another letter we received today, that was originally intended to be included in TCW's DEIS Response. Please accept it at this time.

Thank you

Sue Bombeck

Sue Bombeck

Twin Cities & Western Railroad

Office Manager

Office – (320) 864-7201

Cell – (612) 655-3401

From: Mack, Dan [mailto:Dan.Mack@chsinc.com]
Sent: Monday, December 31, 2012 12:02 PM
To: Sue Bombeck; Mark Wegner
Subject: CHS letter to Hennepin country re: Proposed TCW re route

Mark and Sue, attached is a letter from CHS to Hennepin county regarding the proposed re route of the TC&W rail line to accommodate the Southwest Transit project. My apologize for being so late, I simply failed to respond within the time period you originally requested. Hopefully, the CHS letter can still be included in the submittal to support TC&W's and its shippers efforts.

Dan Mack

CHS Inc.

This outbound email has been scanned for all viruses by the MessageLabs Skyscan service.
For more information please visit http://www.symanteccloud.com

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CHS

5500 Cenex Drive
Inver Grove Heights, MN
55077

December 28, 2012

RE: Southwest Transitway

Dear Hennepin county, Housing, community Works & Transit

CHS Inc. is a regional agricultural and energy cooperative that serves the various needs of local coops and agricultural producers across Minnesota as well as across a large portion of North America. CHS is a significant originator of grain from Minnesota farmers and local coops, connecting the grain and oilseeds grown in Minnesota with access to consumptive demand around the world.

CHS utilizes the services of Twin Cities & Western Railroad to access grain origination from the geographic areas served by the TC&W. As you might expect, being able to source that grain competitively and with appropriate freight economics is crucial to continued success for both TC&W and its customers. It has recently come to our attention that a reroute/realignment has been proposed for a portion of the TC&W track located within the Twin Cities, for the purpose of accommodating the development of the proposed Southwest Transitway. CHS does support the efforts to establish mass transit alternatives across the metro. However, It is our understanding the re route currently being proposed presents the potential for increased operating costs to TC&W. Those higher operating costs would likely be required to be passed on to shippers in the form of higher transportation costs. C

CHS asks and encourages Hennepin County to take the time necessary to consider all viable options as it relates to the co-existence of the Southwest Transitway and the existing TC&W rail infrastructure. We would hope the parties can come to a conclusion that satisfies the needs of the Southwest Transitway as well as TC&W, resulting in minimal or no change to the economic impact to TC&W and its customers so as to continue to provide Minnesota produced grain and products with competitive access to markets. C

Sincerely,

Dan Mack
Vice President, Transportation and Terminal Operations

Jonathan Pribila
<jpribila@gmail.com>
12/31/2012 12:13 PM

To swcorridor@co.hennepin.mn.us
cc
bcc
Subject SWLRT

To whom it may concern:
I have attached a copy of my comments to the DEIS for the proposed SWLRT as a word document.
Thank you
Jonathan Pribila

Southwest Light Rail Transit Way - Draft Environmental Impact Statement Response Letter

The Southwest Light Rail Transit Way will significantly impact the people that live along the entire length of its path, the wildlife and vegetation along the proposed route, and the people who use the bike and pedestrian paths along the tracks. The Cedar-Isles-Dean and Kenwood neighborhoods that line the Kenilworth corridor will likely experience the largest impact because the homes and parkland are in close proximity to the proposed route. E2 E0

The primary purposes of the DEIS are (i) to identify the potentially significant environmental impacts of the proposed transit way, (ii) to identify and analyze the reasonable alternatives, and (iii) to identify measures that would mitigate the significant environmental impacts of the proposed project, including both the construction-related and long-term impacts.

The primary aim of this response it to minimize the impact that the light rail will have on commuters and residents along the railway as well as the surrounding wildlife and environment. The observations below relate to a failure of the DEIS to adequately assess the potential environmental impacts within the Kenilworth Corridor, particularly given its acknowledged environmental sensitivity, and to identify and recommend mitigation measures. These deficiencies should be corrected in the FEIS.

1. KENILWORTH CORRIDOR

While the DEIS recognizes that "portions of the land between Cedar Lake and Lake of the Isles are very high sensitivity," the DEIS puts no particular focus on the Kenilworth Corridor. Instead, the environmental assessment is spread more-or-less evenly across the 15 miles of the proposed transit way (the "study area"). An exception is the Freight Rail Relocation Segment which receives much attention in terms of its potential impact on residents in St. Louis Park. This is not to fault an emphasis on the relocation analysis. It is simply to draw a contrast between the different levels of data gathering and technical analysis. Given the high sensitivity of the portions of land along the Kenilworth Corridor and the significant number or residents that will be affected, it deserves the same level of attention. E4

2. NOISE AND VIBRATION

The entire study area is viewed as "dominated by urban land use." This perspective comes across particularly clearly for the Kenilworth Corridor, in direct contrast with the perspective of the Minneapolis Park and Recreation Board. The Federal Transportation Agency (FTA) noise impact criteria are based on land use and existing noise levels. The FTA has three land-use noise categories: Category 1 is for land where quiet is an essential element of its use; Category 2 are residences and buildings where people normally sleep; Category 3 are institutional land uses such as schools, libraries and churches. O1, O5,

The park land to the west of the Kenilworth Corridor is either shown as a Category 3 land use in the DEIS or is not characterized. The residential properties to the east and west of the Corridor are shown as Category 2. This parkland has been inappropriately characterized. The MPRB, for example, views the Kenilworth Regional Trail as an area focused on "serenity, habitat restoration, minimal development and passive recreation." Based on the MPRB definition, the Kenilworth Corridor should be classified as Category 1 land use because it consists of "buildings or parks where quiet is an essential element of their purpose." The noise and vibration analysis needs to be recalibrated in light of the adjacent parkland being appropriately identified as Category 1 land use.

There are also problems with the methodology used to determine noise and vibration impact. It does not appear as though any direct measurement of existing noise levels was taken within the Kenilworth Corridor. The closest location appears to be Kenilworth Place and Upton Avenue South, which is identified as being "representative of noise-sensitive land use in the Kenwood Neighborhood, away from major thoroughfares."

Using the current, but incorrect categorization system outlined in the DEIS, 3, Within Segment A, the DEIS estimates that there are 73 moderate noise impacts and 183 severe impacts. It states that "[m]any of the impacts are due to low existing ambient noise levels combined with proximity of residential neighborhoods to the alignment and high speeds of operation." Other impacts were associated with the warning signal use at the 21st Street station coupled with low ambient noise levels. The DEIS states that noise levels that result in a severe impact present a compelling need for mitigation. However, the DEIS does not recommend any specific mitigation measures for the Kenilworth Corridor. In fact, the only specific recommendation in the DEIS calls for the use of Quiet Zones and this is recommended only for the freight rail relocation segment in St. Louis Park. E4

Several options for noise mitigation need to be clearly outlined prior to FEIS. Specifically, a tunnel option in which the light rail is below the current grade through the Kenilworth corridor should be fully evaluated and included in the FEIS. The increased cost of tunneling should be thoroughly and thoughtfully evaluated relative to the substantial improvement in noise pollution between west lake station and 21st street. This short segment is narrow and extremely close to housing units. Mitigation through large berms or sound barriers, which have been used along the Hiawatha Line, are likely not going to be possible because of the very limited space available. E4

In addition to the housing units affected, users of the Grand Rounds bike and pedestrian trail will experience a significant change in the level of ambient noise because of the frequency of the train. The effect of increased noise on these users of the Kenilworth trail are completely omitted from the analysis in the DEIS since the Kenilworth trail was not identified as a Category 1 land use. These trails are immediately next to the rail with little or no space for mitigation. What are the plans to mitigate the noise to the recreation trails immediately adjacent to the proposed railway? Specific plans for appropriate noise mitigation need to be included in the FEIS. O1, O5

Furthermore, the impact on the number of bikers and pedestrians that use the Kenilworth trail has been significantly underestimated. According to the DEIS, bicycle and pedestrian counts were performed in September (6.3.1.4). As everyone in Minneapolis knows, the bike and pedestrian trails receive much higher use during the summer months. These counts need to be obtained several times per day during the summer months to accrue data that will allow for a realistic summer time average. E4 P9

3. LIGHT POLLUTION

The DEIS fails to address, in any fashion, the impact that the ambient light from the rail will have. The current freight rail adds little light to the surrounding wildlife areas and homes. The proposed light rail will run many times an hour and frequently at night. The change in ambient light levels along the Kenilworth corridor will be significant and will disrupt the serenity of the neighborhood. What are the proposed mitigation measures for this light pollution? Running the train below grade or tunneling the train through this highly sensitive area would mitigate this light pollution. E4 N8, N2

4. WILDLIFE AND NATURAL HABITAT

The perspective of the DEIS on urban-land-use is inconsistent with the fact that the DEIS identified fourteen federal or state-listed species and native plants within one mile of the proposed transit way. Ten of the species as well as native plants are found in Segment A of the transit way (primarily the Kenilworth Corridor), significantly more than are found in any other segment. From personal experience, bald eagles and peregrine falcon are routinely seen along the Kenilworth Trail. No adverse environmental impact is noted with respect to any of the ten species listed in the DEIS and there is little-to-no analysis offered in the DEIS to support this conclusion. E10 N8

Moreover, the DEIS sees the habitat as typically of low quality, and states that the native habitats are mostly concentrated in areas other than the Kenilworth Corridor. The DEIS claims that only 2.5% of Segment A is said to have native habitat. While this may be technically true, it vastly underestimates the area of vegetation and woodlands adjacent to the proposed route. In addition, by the DEIS' own claim, within 1 mile of the proposed route, Segment A contains tamarack swamp and a bat colony which are

considered high quality or unique natural communities. No mitigation is proposed for the effect of the light rail on these unique communities.

The DEIS does note that increased habitat fragmentation "could be expected from the construction of required safety/security barriers to separate the light rail tracks from adjacent bicycle/pedestrian trails," which could be mitigated "through the use of wildlife underpasses." This is one of the few specific mitigation measures proposed in the DEIS, and seems to run counter to the determination that there is little to mitigate.

5. <u>KENILWORTH CHANNEL AND BRIDGE</u>

E2

S3, S4

The historic water connection between Cedar Lake and Lake of the Isles remains a defining characteristic of the Minneapolis Chain of Lakes Regional Park. The 1913 Kenilworth Channel is part of the Grand Rounds Historic District that is eligible for the National Register of Historic Places. It is critical to preserve the historic nature of the Channel.

In addition, The Kenilworth Channel was central to creating the Minneapolis Chain of Lakes and provides a critical connection between Cedar Lake and Lake of the Isles. Trail access is necessary for people as is year-round channel access for both people and wildlife. It is also a critical link in the City of Lakes Loppet (winter ski race) and City of Lake Tri-Loppet.

According to the DEIS (3.6.3.3) …the bridge design, bank treatment, and aesthetics for the new facility and the potential replacement or modification of the existing pedestrian bridge would have a substantial effect on this historic landscape… In addition, (3.4.5.3)…Potential long-term effects may occur at the following properties: Kenilworth Lagoon/Channel, Grand Rounds (potential effects of the construction of new bridge structures within the historic district; the design and footprint of these structures may affect the banks of the historic channel and may affect the district's overall feeling and setting). While the DEIS notes that these issues will be addressed during preliminary engineering, it is essential that the historic nature of the channel and recreational access between the Lake of Isles and Cedar Lake must be maintained.

N8

Few measures are proposed to mitigate the potential adverse environmental impacts of the project, and nearly none that are of a specific nature. For example, the DEIS notes that "[t]he impact of replacing an existing bridge over the channel that connects Cedar Lake and Kenilworth Lagoon could be substantial because of sensitive receptors traveling the lagoon." This has a significant impact on several aquatic federally and state listed species including the Black Sandshell (mollusk), Pugnose Shiner (fish), and Least Darter (fish). Despite identifying these concerns, the DEIS offers no specific mitigation measures.

E8

N10

In addition, by the DEIS' own account, the area between Cedar Lake and Lake of the Isles is considered a zone of very high sensitivity to pollution of the water table system. The current bridge is constructed of creosote soaked wood pylons. Creosote is a known carcinogen and its use is monitored by the Environmental Protection Agency. Will the necessary reconstruction of this bridge address the creosote pylons that extend into the canal connecting Cedar Lake and Lake of the Isles?

No mitigation measures are set out in the DEIS to address these concerns. Instead, the bridge design, bank treatment and aesthetics for the new bridge are to be addressed later, *after* the Final Environmental Impact Statement (FEIS) has been approved. These need to be addressed prior to the FEIS and need to minimize the affect on water pollution and these federally and state listed aquatic life.

6. <u>INDIRECT EFFECTS OF LTR</u>

E2

N12

The DEIS is required to analyze the cumulative impact of reasonably foreseeable future developments. This is also true for the potential indirect effects that may occur in the future. For example, the stated intent of LRT stations is to precipitate development on nearby property. The environmental effects of that future development, when added to the impact of the LRT, may have a significant environmental impact. However, no analysis of the potential cumulative or indirect effects of the Southwest LRT within the

Kenilworth Corridor was conducted. Instead, it is simply stated that those effects could be controlled by existing regulations, primarily those of the City.

7. CEDAR LAKE PARKWAY INTERSECTION

LRT BRIDGE OPTION

The intersection of cedar lake parkway and the proposed light rail transit way are a source of significant controversy and represent significant safety issues for the vehicular traffic on Cedar Lake Parkway and bike and pedestrian traffic on the pathways. For these reasons the intersection of the proposed transit way and Cedar Lake Parkway needs to be carefully considered.

The DEIS acknowledges that the proposed LRT bridge over Cedar Lake Parkway (CLP) "would have a substantial [visual] impact on this historic landscape." A similar long-term architectural impact is acknowledged. However, further consideration of these impacts is deferred to the "Section 106 consultation process." This is a federally-mandated collaboration process. The City and MPRB are parties to the process. Any resolution of the bridge proposal is likely to occur after the approval of the FEIS.

Separate from these acknowledgements, Cedar Lake Parkway (CLP) is a part of the Grand Rounds Historic District, which is eligible for the National Register of Historic Properties(NLRP). Because of Cedar Lake Parkway's eligibility for the NRHP and because the SW LRT project has and will receive federal funding, the DEIS identifies Cedar Lake Parkway as a "property" under Section 4(f) of the U.S. Department of Transportation Act of 1966. Section 4(f) is intended to prevent the conversion of historic sites, parks, recreation areas and wildlife and waterfowl refuges to transportation uses, except under certain limited circumstances. For purposes of Section 4(f), the prohibition applies whenever the protected property is directly incorporated into a project or the project is so proximate to a protected property that it results in an impact that causes substantial impairment to the property's use or enjoyment (so-called "constructive use"). Substantial impairment occurs when the protected attributes of the property are substantially diminished. Exceptions to the prohibition arise when there is no feasible and prudent alternative. This is clearly not the case since the DEIS discussed several other alternate routes that do not disrupt the Grand Rounds Historic District.

E8

S4

For an unstated reason(s), the DEIS concludes that the proposed LRT overpass is neither a direct or constructive use of the historic attributes of Cedar Lake Parkway. Therefore, the DEIS finds that there is no Section 4(f) prohibition applicable to the construction of the bridge. The DEIS contains no analysis of the proposed bridge's *proximity* to park property as an independent basis for identification as a constructive use under Section 4(f). The explicit reason(s) as to why the proposed LRT overpass is neither a direct or constructive use of the historic Cedar Lake Parkway must be clearly identified and explained in the FEIS.

E8

Further, the DEIS does not make any assessment of the potential noise impact of elevating the transit way nor the visual intrusion of the elevated transit way to nearby residents or to bike/pedestrian trail users. This needs to be fully evaluated in the FEIS. It is also unclear whether the proposed bridge would violate Mineapolis' shoreline ordinance restricting the height of permanent structures close the city's lakes. This needs to be addressed in the FEIS

O1
O5

Finally, the DEIS has no analysis of potential measures to mitigate the visual and noise impact caused by trains traveling across the proposed overpass. Clear mitigation measures need to be fully detailed in the FEIS.

N2

AT GRADE CROSSING OPTION

The intersection of Cedar Lake Parkway and the Kenilworth Trailway is heavily travelled by both cars, pedestrians, and cyclists. This creates two problems: 1. Safety for all users of the intersection. 2. Traffic delays. The DEIS acknowledges the problems with a grade crossing and have proposed a grade separated crossing as an alternative.

In 2011, according to the Metropolitan Council's annual visit estimates, Kenilworth Regional Trail had approximately 624,400 visits and the Chain of Lakes Regional Park had 5,122,900 visits. This is significantly higher that the DEIS estimates. Once again, extrapolating bike usage for a 2 hour period in September, fails to reflect the extremely high usage that the trail receives in the summer. This intersection, particularly in the peak of summer, is already very dangerous and has resulted in a number of accidents. P8

Cedar Lake Parkway is heavily travelled particularly at rush hour. It represents one of three ways out of the Cedar Isles Dean Neighborhood and the most direct west exit from the neighborhood. Lake of the Isles and Dean Parkway are the only other options. Given the high degree of pedestrian and vehicular traffic, this intersection is already dangerous and in the summer can result in significant delays. In fact, the DEIS estimates that it will degrade the intersection to a D, E or F status. South of the intersection, traffic would likely back up along the west end of Cedar Lake Parkway and extend on to Dean Parkway. It would block the vehicular traffic exiting Benton Blvd and limit access to the Excelsior Blvd. North of the intersection, it would also limit access to Burnham Road. Further, such impacts are inconsistent with one of the basic design characteristics of the Grand Rounds: a continuous recreational driving experience. Please see the above discussion of Section of 4(F) prohibition of direct or constructive use of the historic attributes of Cedar Lake Parkway. E8 S3

A grade crossing would also increase the noise and air pollution at this intersection due to the high frequency of trains that will cross here. For an at-grade crossing, high levels of track, bell, and whistle noise would significantly diminish the quality of experience in adjacent parkland and along the trails. Frequent traffic delays for train crossings are expected to diminish air quality for park and trail users. E0 E4 N9

The frequent closing of the intersection would cause significant delays in fire, police, and emergency medical response to residences, park facilities, and beaches. Given the limited numbers of ways in and out of the Cedar Isles Dean neighborhood, this could significantly limit access of emergency services to these residents. In addition, due to the proximity of South Cedar Lake Beach, timely emergency medical access across this intersection is critical. E0 O1 R2

The effects of adding LRT into this intersection would result in frequent delays for parkway and trail users along Cedar Lake Parkway, and create visual obstructions. Both of these impacts would significantly diminish the quality of experience for parkway, park, and trail users. Further, such impacts are inconsistent with one of the basic design characteristics of the Historic Grand Rounds: a continuous recreational driving experience. E2 N2 S3

TUNNELING TRENCHING OPTION

The DEIS acknowledges that there are fundamental safety, vehicular and pedestrian traffic concerns with an at grade crossing at Cedar Lake Parkway. The MPRB has recommended tunneling or trenching the transit way underneath the Parkway. While the MPRB did conduct a preliminary assessment of a trenched LRT underpass, no reference was made to a below grade crossing in the DEIS. In fact, the DEIS does not even mention tunneling or trenching the transit way. Tunneling or trenching the transit way is a very valid alternative and one generally favored by the residents of the Cedar Isles Dean neighborhood who would be primarily affected by the proposed light rail. E0

For the above reasons, the "adequacy" of the analysis and conclusions in the DEIS relating to the proposed Cedar Lake Parkway is severely lacking.

8. 21st STREET STATION

The DEIS identifies the 21st Station as a "park and ride" site with parking for 100 vehicles and 1000 daily LRT boardings. There was no assessment of the traffic flow associated with parking at the site. Nor was I1, I2

there a site plan showing the location of the parking lot. Both of these issues need to be addressed in the FEIS. I1, I2

The MPRB believes that the western most track is on park land adjacent the proposed station. If this is true, the DEIS needs to conduct a Section 4(f) analysis regarding the use of park land. No such analysis has been undertaken. The DEIS does state that the land ownership adjacent the station is complicated and that additional survey work may be necessary.

Separate from the track location, the proposed station and associated parking lot could constitute a constructive use of the adjacent park land. The DEIS does not address this issue specifically. Instead, the DEIS makes a general statement that there are no constructive uses of Section 4(f) protected property within the Kenilworth Corridor. If Section 4(f) does apply, a feasible and prudent alternative is to forgo the station entirely or at least the parking component. I1, I2 S3

In addition, no analysis was conducted as to whether the proposed station and parking lot would comply with the requirements of the City's Shoreland Overlay District, particularly those governing storm water runoff and point and non-point source discharges of pollutants. I1, I2 N6

The DEIS acknowledges that the implementation of LRT service and stations along Segment A (mostly the Kenilworth Corridor) "would likely result in some land use change surrounding the stations…" No assessment was done of the cumulative impact of those changes nor was any mitigation proposed to protect the natural character of the area surrounding the proposed station. The City/HCRRA Design Team recommended only minimum infrastructure at the 21st Street station with no development at all on adjacent property. This recommendation is not included in the DEIS as a mitigation measure. I1, I2 N12

In conclusion, the DEIS addresses several specific environmental and economic impacts of the Southwest Light Rail. However, it fails to recognize that the proposed Southwest LTR will fundamentally change the character of the Kenilworth corridor. Most of the residents chose to live here because of the privacy, the park-like setting, and the proximity to nature and recreation trails. The DEIS assumes that the Kenilworth corridor is dominated by urban land use because of the presence of the freight train but it fails to recognize the significant impact that conversion to light rail traveling over 200 times a day at speeds of 50 miles an hour would have. While the DEIS begins to address some of these concerns, it is severely flawed and does not adequately address protecting the environment (Goal 3, DEIS) and preserving and protecting the quality of life (Goal 4 , DEIS) along the Kenilworth Trail. There are flaws in the assumptions made within the DEIS, the methodology used to determine the environmental impact, and most profoundly in the lack of specific mitigation proposed for all of the areas of environmental concern. E0 L4

Thank you for allowing us to submit our comments. We look forward to hearing your response to each of these concerns.

Jonathan Pribila and Steven Thiel
2830 Benton Blvd
Minneapolis, MN 55416

"Ward, Tamara"
<tammy@hnampls.org>
12/31/2012 12:20 PM

To "swcorridor@co.hennepin.mn.us"
<swcorridor@co.hennepin.mn.us>
cc
bcc
Subject Comments concerning SW DEIS

Please find attched comments concerning Southwest Draft Environmental Impact Statement

Thank You

Tamara Ward
Harrison Neighborhood Association
Communications Organizer
612-374-4849
tammy@hnampls.org

See the link below to "Like" us on facebook
http://www.facebook.com/pages/Harrison-Neighborhood-Association/64331324047