



BLUE EARTH COUNTY

Effectively and Efficiently
Delivering Essential Services

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March 2, 2007

Ray Giegear, Project Manager
Cedar American Rail Holding
140 North Phillips Avenue
Sioux Falls, SD 57104

RE: DM&E Powder River Basin Project, Request for Conducting Soil Borings on Blue Earth County Lands

Dear Mr. Giegear:

Blue Earth County does not grant permission to conduct soil borings for the M-2 southern alternative on Blue Earth County Lands because the route has not been permitted by the Surface Transportation Board.

Item 1 of the 2006 STB Order (Page 21 of the document) includes the "...requirement that DM&E use the environmentally preferable routing alternatives set forth in the 2002 decision." The 2002 STB decision document states (Page 21) "...Alternative M-3", an existing corridor involving construction of a new line within UP's right-of-way in the City, would be the environmentally preferable alternative for the Mankato area." The Final EIS also defines the environmentally preferable alternative being M-3. The DM&E is therefore required to use the City route.

If an agreement with UP cannot be reasonably reached, you should provide proof of UP's failure to reasonably agree. If an agreement with the UP cannot be reasonably reached, DM&E should have the authority to acquire the necessary UP interest through eminent domain proceedings. You have stated that condemnation of an interest in the UP route cannot be legally accomplished, and that you could provide proof of that, but have failed to do so to date.

The M-3 route through Mankato is a feasible route until the DM&E can prove that it cannot acquire the right to use the existing corridor from UP through either: 1) an agreement reached through negotiations with UP or 2) use of its eminent domain authority. We understand the DM&E is currently negotiating with the UP. It has not initiated eminent domain proceedings, which it has the power to use and is stating it will use on other parts of the project. The City Route has not been shown to be infeasible and is therefore the only permitted route.

If you have any questions or would like to discuss further, please call.

Sincerely,

Alan Forsberg, P.E.
PUBLIC WORKS DIRECTOR
Blue Earth County Highway Department

AF/kll

cf: BEC Board of Commissioners
Dennis McCoy, County Administrator
Ross Arneson, County Attorney
Victoria Rutson, Surface Trans Board, DC
Senator Norm Coleman, Attn: Tony Eberhard
Senator Amy Klobuchar, Attn: Jake Sullivan
Senator Amy Klobuchar, Attn: Jake Spano
Representative Tim Walz, Attn: Peggy McGlinch
Representative Jim Oberstar, Attn: Bill Richard

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Blue Earth County is an affirmative action, equal opportunity employer.

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District 2 Tom McLaughlin
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District 5 Kip Bruender

E1-2858
JR

Courthouse

204 S. Fifth St.
PO Box 8608
Mankato, MN 56002

Administration

TEL: 507-304-4284
FAX: 507-304-4344

Finance

TEL: 507-304-4181
FAX: 507-304-4077

Physical Plant

TEL: 507-304-4249
FAX: 507-304-4203

Government Center

410 S. Fifth St.
Mankato, MN 56001

Human Services

PO Box 3526
TEL: 507-304-4319
FAX: 507-304-4379

Environmental Services

PO Box 3566
TEL: 507-304-4381
FAX: 507-304-4431

Taxpayer Services / License Center

PO Box 3524
Tel: 507-304-4340
FAX: 507-304-4396

Veterans Services

PO Box 8608
TEL: 507-304-4246
FAX: 507-304-4379

County Attorney

PO Box 3129
TEL: 507-304-4352
Fax: 507-304-4389

Information Technology

PO Box 8608
TEL: 507-304-4204
FAX: 507-304-4355

TDD: 507-304-4399

Nichols Building

410 Jackson St.
Mankato, MN 56001

Corrections

PO Box 3543
TEL: 507-304-4550
FAX: 507-304-4585

Extension

PO Box 8608
TEL: 507-304-4325
FAX: 507-304-4059

Taxpayer Services

PO Box 3567
TEL: 507-304-4251
FAX: 507-304-4075

Public Works

35 Map Dr.
PO Box 3083
Mankato, MN 56002
TEL: 507-304-4025
FAX: 507-304-4049

Law Enforcement Center

710 S. Front St.
PO Box 228
Mankato, MN 56002
TEL: 507-387-8710
TDD: 507-387-5601
FAX: 507-387-4929

Library

100 E. Main St.
Mankato, MN 56001
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FAX: 507-304-4009

