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UNITED STATES
HOUSE OF REPRESENTATIVES

Congresswoman Betty McCollum
Proposed federal loan to the Dakota, Minnesota and Eastern Railroad
July 20, 2006

Betty McCollum
MN 4th Dist

MS. MCCOLLUM: Mr. Speaker, I rise today to call attention to an unprecedented federal loan that is fraught with risk, would enrich a private company at public expense and threatens the people of my state, Minnesota, as well as one of our state's most treasured institutions – the Mayo Clinic.

The Dakota, Minnesota and Eastern Railroad (DM&E) is seeking a massive federal government sponsored loan of $2.5 *billion* through the Railroad Rehabilitation and Improvement Program to expand rail infrastructure in order to transport coal from fields of Wyoming's Powder River Basin. To sell this taxpayer financed scheme to Congress and residents along the proposed line, the railroad is making big promises. But go beyond the promises and a troubling picture emerges – one stained with questionable accounting, dubious ethics and the threat of real harm for Minnesota communities and institutions.

As a Member of Congress, I am strongly opposed to asking taxpayers to provide an unsecured $2.5 billion loan to the DM&E, a company that an established, independent firm, Bearing Point, found to be "a poor credit risk." Bearing Point's assessment of the railroad concluded: "DM&E currently appears to be a thinly-capitalized, low-volume railroad," whose "asset acquisitions were funded largely by government loans and subsidies." Mr. Speaker, I have attached a description and summary of the Bearing Point analysis for the record.

A recent report from the federal Office of Management and Budget shows the stakes for taxpayers are high since the federal government – U.S. taxpayers – would be responsible for covering all losses if DM&E defaults on the loan. Still, the railroad and their powerful friends in Congress who have greased the wheels for this scheme show no hesitation in taking taxpayers for a ride and offer no assurances that $2.5 billion of our tax dollars will be paid back.

Our nation is spending hundreds of billions of dollars to fight wars in Iraq and Afghanistan while federal budget deficits are adding trillions of dollars of debt on the backs of our children. Yet some of my colleagues in Congress appear eager to gamble unprecedented public funds on a risky railroad scheme that will profit politically

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connected business executives and leave hard working taxpayers with all the risk. This is bad public policy and it is bad business. The proposed $2.5 billion, no-collateral loan is more than all the loans ever granted by the Federal Railroad Administration combined. In fact, this loan would be one of the largest ever granted by the federal government to any private company.

Why does the DM&E need to seek this massive federal support? Could it be that private sector investors who have a fiduciary responsibility to invest soundly know a boondoggle when they see one? Unfortunately, it appears the DM&E has been far more successful in attracting Members of Congress who seem willing to ignore their responsibility to the American people to ask the tough questions and demand protections and accountability. It is not Congress' role to be the lender of last resort for high risk, private sector boondoggles. This is all the more true considering the threat the DM&E project poses to Minnesota.

The proposed DM&E line would send dozens of mile-long coal trains through the heart of Rochester, Minnesota every day. Any threat to Rochester's continued growth is a serious concern for Minnesota since it is one of the fastest growing cities in the state and an anchor of Minnesota's high-tech economy. Rochester is best known as the home of the renowned Mayo Clinic. The Mayo Clinic is one of the world's premier medical centers, an economic engine for Minnesota and a health care asset for our entire country. This week's *US News & World Report* "Best Hospital Issue" celebrates Mayo's success, ranking the Clinic among the country's top medical facilities for treating illnesses ranging from cancer to kidney disease.

The 95,000 residents of Rochester expect the trains to tie up traffic and cause daily headaches for local business owners. Mayo Clinic doctors and researchers anticipate the trains will create an environment hostile and incompatible with the work of a world-class medical facility that relies on sensitive medical equipment and conducts delicate scientific testing. In addition to impacts on the community's long-term economic prosperity and quality of life, the railroad expansion also raises imminent safety concerns.

The DM&E's proposed expansion would annually direct thousands of trains through downtown Rochester at a speed of fifty miles an hour. Several of Rochester's downtown rail crossings are only hundreds of yards away from the Mayo Clinic. A derailment or hazardous materials spill at any of these locations would be disastrous for local residents and Mayo's vulnerable patient population.

In fact, the DM&E has one of the worst railroad safety records in America. In the past six years, 17 people have been killed and 93 people have been injured in 227 DM&E accidents at public and private rail crossings. In 2004, the DM&E reported train accidents at a rate over 13 times higher than the national average, and one of these accidents created a hazardous material spill that forced the evacuation of 100 citizens in my home state. The Federal Railroad Administration *itself* announced as recently as October 2005 that DM&E has "serious safety problems." I urge the Federal Railroad

Administration to take into account this dreadful safety record and the risk to Minnesota residents this proposed expansion poses.

Wrapping a profit driven scheme in the thin veneer of public good, the DM&E and its supporters in Congress are pushing a bad deal for Minnesota and imposing a financial risk upon America's taxpayers that is irresponsible and unjustifiable. The federal government does need to make major new investments in transportation infrastructure, but investments consistent with our national goals and in a transparent process that allows Congress to conduct necessary oversight and stewardship of scarce tax dollars. Public dollars should support taxpayer priorities, not the whims of one company and their patrons in Congress. As is too often the case today, Congress has had no opportunity for oversight, no opportunity to ask hard questions of the DM&E and protect taxpayers from one corporation's sweetheart deal that smells worse by the day. This $2.5 billion loan to the DM&E should not be allowed take place and taxpayers in Minnesota and across the United States should be outraged at this pork barrel corporate welfare giveaway.

Letter of Presentation – May 8, 2006

BearingPoint.

- This purpose of this report is to inform Members of Congress, the Department of Transportation, the Federal Railroad Administration ("FRA"), and others of issues surrounding the $2,500,000,000 loan application of the Dakota Minnesota & Eastern Railroad Corporation ("DM&E") under the Railroad Rehabilitation and Improvement Financing ("RRIF") program.
- The broader purpose of the RRIF program is the improvement and expansion of the nation's railroad system. Nevertheless, the program is organized as government loans, not government grants. Therefore, borrowers must exhibit the ability to repay the loan.
- In its RRIF loan review capacity, the FRA is charged with responsibility for assessing applications. Each loan application must be approved on its own merits, taking into consideration (among other things) the creditworthiness of the borrower.
- DM&E has filed an application for a $2,500,000,000 FRA loan. Based upon our review, we have serious concerns about the ability of DM&E to repay such a loan. We believe that the applicant may not meet the minimum requirements for the approval of such a loan.
- Based on the limited available data, DM&E appears to be an undercapitalized and financially precarious company. However, because DM&E is a private company with little financial disclosure, we are limited in our ability to fully assess the company's financial strength or weakness. As a result, no concerned citizen has adequate information to fully assess DM&E's FRA loan application.
- The nondisclosure of the DM&E financial data has been rationalized by the competitive nature of the information contained therein, on the belief that disclosure of even rudimentary financial information would compromise the company's ability to compete in the railroad industry. However, many railroad companies are publicly held, fully disclosing detailed financial information without compromising their competitiveness.
- We believe that the primary risk to DM&E of disclosure of its financial status may not be the loss of any competitive advantages, rather the disclosure of its financial weaknesses and unsuitability for the RRIF loan.
- Given the available public information concerning DM&E's plans, supplemented with the expertise of consultants in the railroad industry, we have endeavored to construct a reasonable facsimile of what we believe to be DM&E's current economic realities and to forecast the results of the proposed Powder River Basin project assuming extension of the FRA loan.
- Our financial projections and assessments utilize dated materials from DM&E's Surface Transportation Board ("STB") application of 1998 , as well as more recent information, taking into account the fact that costs, markets, and industry financial conditions have changed materially since that date. We have updated these projections based on the comprehensive knowledge provided by railroad industry consultants, G. W. Fauth & Associates, Inc., and Gerald E. Vaninetti.
- If the FRA believes that it should disregard the economics associated with DM&E's proposed project and that non-financial, public policy reasons require approval of its loan application, then FRA must require collateral in the form of a Credit Risk Premium (CRP). Under current law, this CRP must now be based on DM&E's potential "going concern value." Based on this approach, we have determined that FRA should set a CRP of approximately $1.4 billion which represents 57% on the loan amount.
- To the extent that our information or assumptions are dated or at variance with DM&E's financial statements, internal projections or the contents of its loan application, we welcome the opportunity to review those financial statements.
- We note that the DM&E's submissions to the STB were public documents. While the FRA is allowed to keep application data private, it is not required to do so. Like the STB, the FRA could disclose this information to lawyers and independent consultants under a protective order. This is by far the largest FRA loan of its kind, suggesting that the FRA may want to reexamine its nondisclosure policy.
- We believe that citizens whose taxpayer dollars may be at risk have the right to inform the FRA of concerns regarding DM&E's $2,500,000,000 loan application. Only with transparency of the loan application and approval process can the integrity of a fair and honest system be assured.

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