



June 23, 2014

The Honorable Betsy Hodges
Mayor of Minneapolis
331 City Hall
350 South Fifth Street
Minneapolis, MN 55415

Council President Barbara Johnson
Minneapolis City Council
307 City Hall
350 South Fifth Street
Minneapolis, MN 55415

Re: Failure to Perform Required Environmental Review for SWLRT

Dear Mayor Hodges and Council President Barbara Johnson:

We represent the Lakes and Parks Alliance of Minneapolis (“Lakes and Parks Alliance”). On its behalf, we write to inform you that the municipal consent process for the Southwest Light Rail Transit (SWLRT) project does not comply with state law.

The Lakes and Parks Alliance is a group of Minneapolis residents concerned about the significant environmental damage that the SWLRT project is likely to cause as it passes through the Kenilworth Corridor. The reason for this concern is straightforward: The environmental sensitivity of the Corridor is well-established, particularly as it runs between Cedar Lake and Lake of the Isles. The decision to move forward with the proposed shallow tunnel design, which routes the LRT through twin tunnels while freight rail runs on the surface, should only occur after the environmental effects of the proposal are fully identified and alternatives properly explored.

This is exactly what the law requires. Since the early 1970’s, both federal and state laws have required a thorough environmental review of major construction projects, such as the SWLRT, where there is the potential for significant environmental harm. This review must occur prior to decisions being made by governmental bodies that would bias the objectivity and thoroughness of the environmental review. The Minnesota Environmental Policy Act, which sets out the State’s environmental review requirements, was one of the first of its kind in the nation.

Environmental review is also incorporated into Minnesota laws governing the design and construction of LRT projects. Those laws require the cities along the planned LRT route to hold public hearings on the preliminary plans for the project and then vote on the plans—the so-called municipal consent process. Minn. Stat. § 473.3994. These same statutes also require that the preliminary design plans include a draft environmental impact statement (DEIS) for the LRT facilities proposed. Minn. Stat. § 473.3993, subd. 2.

In violation of this requirement, the DEIS has not been completed for the LRT option proposed for the Kenilworth Corridor. An earlier DEIS for the SWLRT project was completed in the fall of 2012. At that time, two options were under consideration for the Kenilworth Corridor: (1) rerouting the existing freight trains to make room for LRT tracks, or (2) co-locating both the LRT and freight trains at-grade through the corridor. These options were subsequently rejected. Instead, new options were considered—including moving the LRT underground. In April 2014, the Metropolitan Council approved a plan that would route LRT through the Kenilworth Corridor in two shallow tunnels, but coming out of the tunnels to pass over the channel between Cedar Lake and Lake of the Isles.

The shallow tunnel option was not studied in the DEIS released in 2012, and no supplemental environmental study of the option has been completed. Without the information that will be contained in the DEIS for the proposed shallow tunnel design, concerned citizens, such as those belonging to the Lakes and Parks Alliance, have no way of knowing how the construction of the tunnels through this area, as well as other facets of the proposed design, will affect the lakes, groundwater, adjoining park land and other environmental resources. Thus, concerned citizens cannot participate in an informed, meaningful way in the public hearing process. Similarly, the City Council does not have all the information it needs to make an informed decision about the Southwest LRT plans. This is exactly the situation that the light rail statute sought to prevent by requiring that City officials—and the public—have the appropriate DEIS available for their review at the time the City is considering whether to give municipal consent.

Accordingly, the Lakes and Parks Alliance requests that the City require that the necessary environmental review be performed before the Metropolitan Council asks the City to consent to the preliminary plans. The decision to approve the plans before that review is complete would not only endanger the environment, but would also violate the state laws governing the construction of light rail transit.

Mayor Hodges
Page 3
June 23, 2014

Sincerely,

GRAY, PLANT, MOOTY,
MOOTY & BENNETT, P.A.

By Thomas L. Johnson
Thomas L. Johnson

500 IDS Center, 80 South Eighth Street
Minneapolis, MN 55402
Main: 612-632-3000
Direct: 612-632-3207
Fax: 612-632-4207
thomas.johnson@gpmlaw.com
www.gpmlaw.com

BASSFORD REMELE

By Lewis A. Remele, Jr.
Lewis A. Remele, Jr.

33 South Sixth Street, Suite 3800
Minneapolis, MN 55402-3707
Main: 612.333.3000
Direct: 612.376.1601
Fax: 612.746.1201
lremele@bassford.com
www.bassford.com

cc: All City Council Members
Susan Haigh, Chair of the Metropolitan Council

GP:3710850 v2