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Showing the Spirit.

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December 11, 2006



Surface Transportation Board
Attn: Section of Environmental Analysis
Finance Docket No. 34177
1925 K Street, N.W.
Washington, DC 20423-0001

FD-34177

Re: Response to the Environmental Appendix submitted by the Dakota,
Minnesota and Eastern Railroad

Dear Administrator Boardman:

The City of Dubuque, Iowa is writing to comment in response to the environmental appendix submitted by the Dakota Minnesota and Eastern Railroad (DM&E) as required by the Surface Transportation Board (STB).

Throughout this process, including, but not limited to the multiple filings on Finance Dockets 33407, 34177, 34178, 34871 and 34872, Dubuque has maintained a constant concern, the environmental impact of the DM&E project. The City of Dubuque has environmental concerns dealing with the health, safety and welfare of our community. The communities of Wyoming, South Dakota and Minnesota were granted environmental review prior to construction. Iowa should have the same consideration.

I will not go into the acquisition of the Iowa Chicago & Eastern Railroad by the DM&E as you are familiar with the project other than to say it is not entirely about coal. There will be additional products and commodities originating from the new PRB line as constructed by the WDR. What I would like to address is the implications for Dubuque.

First, before the DM&E acquired the IMRL lines the DM&E was subject to an agreement related to track usage. Now the DM&E has exclusive control over the former IMRL lines through Dubuque.

Next, let me put Dubuque's position into context: the City of Rochester, MN has eleven (11) rail crossings; Dubuque has eleven (11) at-grade rail crossings and two (2) elevated crossings. See City's Exhibit 1. The DM&E rail which passes through Dubuque separates two significant areas of our community from the remainder of the City: those areas are the Kerper Boulevard industrial area and the Port of Dubuque.

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The Kerper Boulevard industrial area includes, in addition to a number of industrial businesses, the City of Dubuque Municipal Services Center, the City's Eagle Point Water Plant and access to the bridge over the Mississippi River that connects Iowa and Wisconsin.

The DM&E railroad tracks come into the North End of Dubuque near the City's Eagle Point Water Plant, which is also near Lock & Dam 11 and the Mississippi River. The tracks are within **35 feet** from the facilities water filters. A spill from a rail car or a derailment has the potential to be devastating to the City's water supply. Recovery from contamination of the City's water source while expensive could be even more so if the damage to the facility is irreparable.

The Municipal Services Center is home to the City's equipment and staff handling sewer maintenance, snow and ice control, solid waste collection, street and traffic lighting and street maintenance. Delays or hazards to the citizens of Dubuque must be examined when considering a potential increase in rail traffic. Mitigation is necessary to ensure safety as well as preparation.

The other section of Dubuque which will be most impacted is the Port of Dubuque. The Port of Dubuque is home to a \$188 million project known as the *America's River* project. This public/private partnership includes a number of attractions including the Mississippi Riverwalk, the American Trust Rivers Edge Plaza, the Alliant Energy Amphitheater and most importantly the National Mississippi River Museum and Aquarium (NMRMA).

America's River Project Phase II is underway in the port and the related development is ongoing. McGraw Hill is currently constructing a \$32 million dollar headquarters. Peninsula Gaming, LLC will construct a new \$50 million dollar facility.

The Dubuque Historical Society is expanding the National Mississippi River Museum & Aquarium to the tune of \$32 million dollars to add a RiverMax Theater and Great Rivers Center. The 250 seat RiverMax Theater will be built adjacent to the current museum showing 3D/4D movies. The RiverMax Theater will be the only large format theater in Dubuque. The Great Rivers Center will have galleries, storefront retail, the National Rivers Center and the Rivers Research Center. When all is said and done the museum will double in size.

Port of Dubuque, LLC recently announced a \$70 million dollar mixed-use development in the Port of Dubuque. The development will include a new corporate headquarters for prominent Dubuque architect The Durrant Group as well as a mix of retail and commercial space in addition to high-end condos. This new investment amounts to an additional \$189 million dollars on top of the previous \$188 million dollars.

City emergency services as well as \$377 million dollars in development and investment will be restricted by increased rail traffic. An environmental impact study (EIS) and

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necessary mitigation is essential to ensure a safe co-existence of the railroad and the Dubuque community.

The DM&E cannot currently project the amount of traffic which will initiate in the PRB or across Wyoming, South Dakota and Minnesota reaching Iowa. They estimate Dubuque will see 5 additional coal trains per day. Environmental Appendix p. 18 referencing Exhibit B. However, the increase in traffic could be exponentially higher than suggested as this estimate addresses only coal traffic. Coal, fuel and commodity traffic could soar. DM&E currently serves 6 ethanol plants, 2 bio-diesel plants, 3 flour mills and 6 soybean processing plants along their routes. The DM&E is banking on an increase in business from 12 ethanol and 3 bio-diesel plants currently under construction or proposed. See: <http://www.dmerail.com/PRB/DME%20Rail%20Upgrade%20Background.pdf>. This potential business triples the number of ethanol plants and is two and a half times the number of current bio-diesel facilities DM&E currently serves.

Projections from the DM&E indicate that utilities on the East Coast are expected to be large consumers of the low-sulfur coal from the PRB. In addition to coal, as the use of alternative fuels increases construction into the PRB will result in an increased amount of rail traffic carrying coal, ethanol, corn for the ethanol production, grain and other commodities. From PRB coal to South Dakota corn the DM&E must go east to Chicago in order to reach certain markets. The DM&E has few routes to reach Chicago, one of significance which passes through Dubuque.

The DM&E Corporate Family currently runs trains through the City of Dubuque in order to access Chicago. While all of the areas along the track in Wyoming, South Dakota and Minnesota have had environmental studies completed no such opportunity has been afforded to Iowa communities, including Dubuque, which could experience serious repercussions.

There is no more dangerous repercussion than an ethanol spill near our water plant. The safety record of the DM&E is questionable at best; add to this a \$6 billion dollar debt and what happens if such a disaster occurs? Can the DM&E absorb the costs of the necessary cleanup and resulting damage? The DM&E must be held accountable to protect communities along their tracks from substantial harm, including but not limited to environmental assessment, upgraded tracks, crossings and safety features. The speeds of the trains should also be addressed.

One element which has heretofore been neglected is training of DM&E personnel. Safety is not solely about tracks and safety features. It is also about training. Many of the recent accidents on DM&E tracks are portions of track which have been recently upgraded. See: http://www.protektrochester.com/downloads/Final-11.24_Courtland-derailment.doc. The DM&E must invest in its people through proper training in operations and safety. Properly trained personnel are a necessity on both new and existing rail lines.

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The corporate family of Dakota, Minnesota and Eastern (DM&E), Cedar American Rail Holdings (CARH), Iowa, Chicago & Eastern (IC&E) and the Wyoming, Dakota Railroad Properties Inc. (WDR) states that the PRB project will not result in a meaningful increase in coal traffic on IC&E's former IMRL lines. The DM&E cannot realistically expect this project to have a de minimis impact on Iowa, and particularly Dubuque. A \$6 billion dollar project cannot be financed successfully by 8 trains a day, which is your threshold for an EIS. Scheduling and routing being what they are trains destined for Chicago will pass through and impact Dubuque. There will be additional train traffic; there will be a meaningful increase in traffic on the former IMRL lines. As delays due to the current train traffic in Dubuque are already at levels dangerous to the health, safety, welfare and economy of Dubuque an increase in train traffic inevitably increases the risk to our citizens and businesses both physically and financially.

Iowa communities deserve similar protections afforded to the affected communities in Minnesota, South Dakota and Wyoming. Dubuque would like environmental impact studies completed as well as any necessary mitigation.

Alternatively, if you accept the DM&E assertion that rail traffic will only increase by 5-8 trains per day and that an EIS is not called for then the City of Dubuque asks you to impose a restriction limiting an increase of rail traffic to the 5-8 trains estimated by the DM&E. If the DM&E wishes to increase traffic along the former IMRL lines in the future Dubuque asks the SEA and STB to reserve the right to demand further environmental review at that time.

In closing, the City of Dubuque understands the economics of the PRB project for the DM&E Corporate Family but today we ask the SEA to balance this with the interests, lives and economics of the citizens and businesses of Dubuque. Thank you for your time and consideration.

Sincerely,

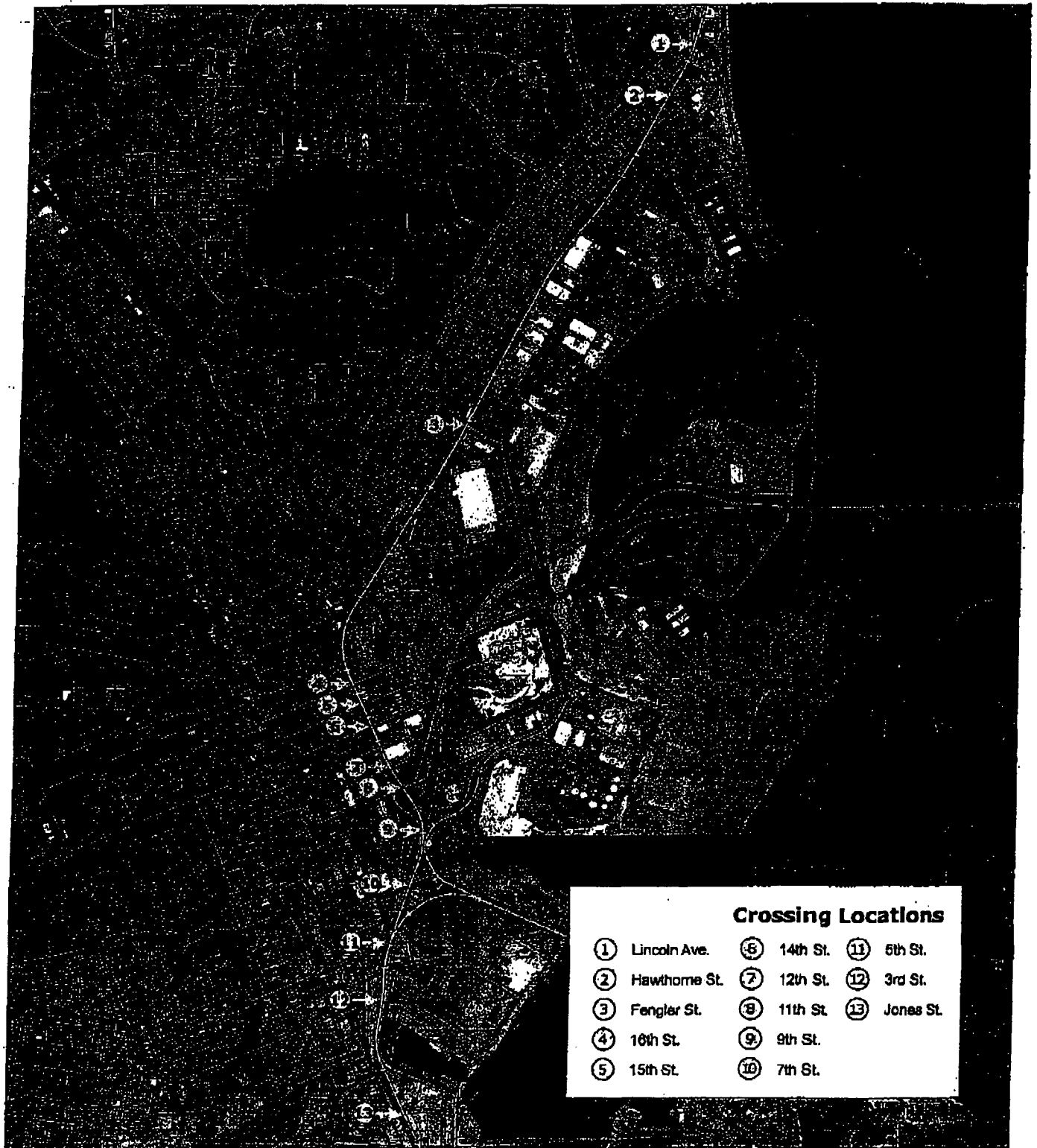


Michael C. Van Milligen
City Manager

MCVM:cs

cc: U.S. Army Corps of Engineers, Civil Works Office
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Crossings



INCORPORATED
DUBUQUE
City of Dubuque