



Iowa Department of Transportation

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December 4, 2006

Section of Environmental Analysis
Surface Transportation Board
1925 K Street N.W., Room 700
Washington, DC 20006

Re: Finance Docket No. 34177
Comments: Environmental Appendix for
Iowa, Chicago & Eastern Railroad Corporation Acquisition and Operation
of the I & M Rail Link, LLC

Dear Sirs:

Enclosed for filing is a signed original of Iowa Department of Transportation's comments to the Environmental Appendix provided by the Dakota, Minnesota and Eastern Railroad relative to Finance Docket No. 34177 (Iowa, Chicago & Eastern Railroad Corporation in the acquisition of the I & M Rail Link, LLC) as required by decision by the Board on October 18, 2006..

If you have any questions regarding these comments please contact Mr. John Hey, Modal Division, Iowa Department of Transportation at (515)-239-1653.

Sincerely,

A handwritten signature in black ink that reads "Neil Volmer".

Neil Volmer, Director
Modal Division
Iowa Department of Transportation

NV:JH:tk
Enclosure

SECTION OF ENVIRONMENTAL ANALYSIS
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34177

**Comments of the Iowa Department of Transportation on the Environmental
Appendix submitted by the Dakota, Minnesota and Eastern Railroad (DM&E)**

Prepared by:
Modal Division
Iowa Department of Transportation

Dated: December 3, 2006

Introduction:

On May 12, 2006 the Iowa, Chicago and Eastern Railroad Corporation (IC&E), and the Dakota, Minnesota & Eastern Railroad Corporation (DME), filed a petition to partially reopen the decisions made by the Surface Transportation Board (STB) in July, 2002 and February, 2003; decisions related to the acquisition and control of I & M Rail Link (IMRL). In those decision, the STB allowed the acquisition and control transactions to go forward with conditions, one of which prohibited coal traffic from the Powder River Basin from using IC&E lines (the former IMRL lines) until appropriate environmental review had taken place. In those proceedings, the Iowa Department of Transportation (DOT) was neither for nor against the acquisition and control of the IMRL assets by the DM&E. Our concerns centered on the appropriateness of the process and the ability of Iowa communities to have an opportunity for appropriate relief from any environmental impacts due to increased rail traffic resulting from the construction of the Powder River Project. Our position has not changed.

In October, 2006, the Board responded to the petition to reopen and directed the DM&E to prepare an Environmental Appendix "setting out their (DM&E) assertion that there would be no potentially significant cumulative impacts." The Iowa Department of Transportation does not agree that there would be no impact and believe there is a need for further environmental review and mitigation. Our comments are below.

Comments:

The Iowa DOT does not oppose the construction of the Powder River project and expansion of the DM&E. However, we do raise our concerns about the potential long term impacts that PRB coal traffic may have on Iowa communities. We disagree with the DM&E/IC&E assessment that the cumulative impacts are not expected to result in any material change in the amount of traffic that would move via the former IMRL lines. We ask the STB to require the DM&E to provide Iowa communities with appropriate relief from the cumulative impacts of increased traffic. We believe that Iowa communities should be provided the same opportunities for an environmental review and mitigation of impacts as Minnesota and South Dakota communities had during the Powder River Construction proceedings.

The DM&E has argued that they had always expected coal traffic to be interchanged and move over the IC&E (formerly the IMRL lines) and that there would be no increase from the levels that were expected prior to control of the IMRL. It is obvious that for the Powder River Basin construction project Environmental Impact Statement (EIS), the DM&E analysis presumed that the majority of traffic would be on the DM&E line east of Owatonna with some interchange traffic moving over the IMRL lines. However, since the DM&E did not control the IMRL lines at that time the level of traffic could have been

presumed to be minimal. That may or may not be the case today. Now, the IMRL is controlled by the DM&E and nothing prevents them from interchanging even more traffic over these lines.

Not until this Environmental Appendix was presented has there been an estimate of rail traffic on the IC&E (formerly the IMRL lines). The DM&E says that traffic will be less than eight trains a day. A very convenient number, since that is generally the threshold for determining if there is a need for environmental review. What is conveniently forgotten is that now, since the DM&E has control of those lines, there is nothing preventing the DM&E from moving a substantial amount or even all of the Powder River coal traffic over those lines and thus perhaps avoiding significant improvements to the DM&E east of Owatonna. It would also allow DM&E to avoid the dissent in the Rochester area and potential political difficulties holding up the overall project. This could all be done without any type of environmental review or concern for Iowa communities. We feel Iowa deserves better.

The DM&E also argues that the information provided on projected changes in traffic on the IC&E does not include any projection of the percentage increase in annual gross tons (changes in annual ton miles can also be used as a threshold for environmental review). DM&E argues that the eight trains a day threshold should be used. We disagree. As DM&E states "The STB generally does not apply gross ton mile calculation in proceedings involving new rail line construction..." However, this is not a new line construction. The IC&E lines have been there for years and currently have traffic moving over them. Any new traffic resulting from the Powder River project will increase gross annual ton miles on those lines by significantly more than the 100% increase threshold.

DM&E further states, "Moreover, because PRB coal traffic will not commence moving until sometime in calendar year 2009, application of the "percentage increase in gross ton miles" thresholds would require a construction of a hypothetical baseline on non PRB coal traffic densities..." Precisely, that is what is needed and that is what was done for the lines in South Dakota and Minnesota. How else could there be an estimate of the environmental impacts and mitigation needed on those lines if there was no hypothetical baseline. Similar efforts are needed and justified for Iowa communities.

In our filings with the STB, we have consistently asked that Iowa communities be treated as fairly as the South Dakota and Minnesota communities were in the Powder River construction approval case. To the DM&E's credit, it came to an agreement with virtually all the communities along the DM&E lines in Minnesota and South Dakota. We see no reason why such agreements cannot be reached with Iowa communities. Doing an appropriate analysis of the impacts of increased traffic and reaching agreement with Iowa communities that will be impacted does not have to be a time consuming or extensive effort. However there needs to be a commitment from the DM&E on providing realistic traffic estimates, estimating the potential impacts of those traffic levels and offering to mitigate some of those impacts. As DM&E states, the PRB construction project will not be complete and coal traffic moving on those lines until sometime in 2009. Between now and then, mutual agreements with Iowa communities can be developed and put in place.

The Iowa DOT supports the DM&E Powder River Construction Project. We believe there are benefits to Iowa, to the region and to the nation resulting from this project. We also believe in community and railroad agreements which help foster a strong and cooperative working relationship on railroad traffic impacts. The agreements with local communities are important and should be based on trust, openness and a desire to resolve differences. As stated before in our filings with the STB, we have consistently asked that Iowa communities be treated fairly. That will continue to be the case. I would hope that in your review of the Environmental Appendix, you'll provide a mechanism to achieve that fairness.