

Correspondence

Hon. Vernon A. Williams, Secretary
Surface Transportation Board
1925 K Street, N.W.
Washington, D.C. 20423-0001

E/- 2361
vjr

Re: Finance Docket No. 34177
Iowa, Chicago & Eastern Railroad Corporation
Acquisition and Operation Exemption – Lines of I & M Rail Link, LLC

Finance Docket No. 34178
Dakota, Minnesota, & Eastern Railroad Corporation
Cedar American Rail Holdings, Inc. – Control – Iowa, Chicago & Eastern
Railroad Corporation

Dear Secretary Williams,

I am writing in response to the request of the Petition of Iowa, Chicago & Eastern Railroad Corporation (I C & E) and Dakota, Minnesota & Eastern Railroad Corporation (DM & E) dated May 11, 2006 and filed on May 12, 2006 to reopen and partially modify conditions of the aforementioned dockets. Specifically the request to modify the conditions issued in 2002 by the Surface Transportation Board (STB) that prohibit “. . . any trains moving to or from the line approved for new construction in DM & E Construction over what are now IMRL lines until we (DM& E) have conducted any appropriate environmental review and issued a further decision permitting such operations.” At that time the STB directed DM & E and IC & E to file “information regarding anticipated additional trains handling traffic on the new line” and to indicate “what level of environmental review” would be appropriate to address the cumulative effects of such traffic.

I am requesting that the STB not grant a waiver of the conditions as originally issued in the 2002 decision. Until recently, the city of Bellevue, Iowa was not aware of the intent of DM & E railroad to significantly expand train traffic along former IC & E rail lines as a result of coal traffic originating from the planned new line into the Powder River Basin (PRB) of northeastern Wyoming. Since 2002 DM & E, as part of its acquisition of IC & E railroad, has indicated its intent to use existing IC & E rails to route coal traffic, but has made no attempt until April 2006 to respond to inquiries made from Bellevue about the impact this increased traffic would have on our community. Rather, DM & E has filed a waiver request seeking relief from the environmental review condition so that it made proceed with obtaining the financing needed to construct the new PRB line and provide assurances to new customers and new markets they hope to serve. In their waiver request DM & E states “ . . . in no circumstance will DM & E route any coal traffic from its new PRB Line via IC & E’s lines prior to 2009.” They further state that “ . . . by that time, the environmental review (if any) . . . should be

completed, and any appropriate and legal mitigation conditions will be in place.” Since DM & E has only recently begun to dialog with communities about the impact increased coal traffic will have on each community, I do not believe it is realistic to state that these matters, in particular environmental review and mitigation, will be resolved by 2009.

In their waiver request, DM & E states “It is difficult to market or finance without viable, confirmed routing options. Customers need assurances not just that we can reach a market – particularly in markets like Chicago.” In the same way, it is difficult for cities such as Bellevue to rely simply on the word of DM & E that *“the environmental review (if any) . . . should be completed, and any appropriate and legal mitigation conditions will be in place.”* In 2002 the STB recognized the important of the impact that the Powder River Basin project would have on DM&E and its ability to increase its market as well as the impact that this increased customer base would have on communities where train traffic would be increased. Since 2002 DM & E has received its directive on the appropriate steps necessary to protect the environment and safety of these communities, but has taken few steps to have dialog with the impacted communities. This dialog has only begun as a result of obstacles presented with trying to obtain financing for the Powder River Basin project. I urge you to preserve the measures that were put in place by the STB in 2002 and deny the waiver request of DM & E.

Thank you for your time and consideration in this matter. Please feel free to contact me at 563-872-4456 if you have any questions or concerns regarding this information.

Sincerely,

Loras Herrig
City Administrator