



Minnesota Department of Transportation

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June 3, 2005

Case Control Unit
STB Finance Docket No. 33407
Surface Transportation Board
1925 K Street, NW
Washington, DC 20423-0001

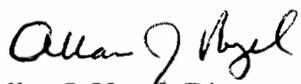


Attn: Ms. Victoria Rutson
Section of Environmental Analysis

Dear Ms. Rutson:

Enclosed for filing are the original and ten copies of comments by the Minnesota Department of Transportation as announced by the Surface Transportation Board for Finance Docket No. 33407.

Sincerely,


Allan J. Vogel, Director
Freight, Railroads & Waterways

BEFORE THE
SURFACE TRANSPORTATION BOARD



STB FINANCE DOCKET NO. 33407

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION CONSTRUCTION
INTO THE POWDER RIVER BASIN

MINNESOTA DEPARTMENT OF TRANSPORTATION COMMENTS
ON THE DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT STATEMENT (DSEIS)
CONCERNING THE DAKOTA MINNESOTA & EASTERN RAILROAD'S PROPOSED
POWDER RIVER BASIN EXPANSION PROJECT

Allan J. Vogel, Director
Freight, Railroads & Waterways
Minnesota Department of Transportation
1110 Centre Pointe Curve
Mendota Heights, Minnesota 55120

June 3, 2005

My name is Allan J. Vogel, Director of Freight, Railroads and Waterways for the Minnesota Department of Transportation (Mn/DOT). Mn/DOT is the state agency responsible for rail planning and programs in Minnesota. Part of Mn/DOT's responsibility is to comment on mergers, consolidations, acquisitions or other significant transactions involving railroads that affect or may affect Minnesota. The proposal by the Dakota, Minnesota and Eastern Railroad (DM&E) for construction into the Powder River Basin, herein referenced as "PRB project," is a matter falling within the jurisdiction of Mn/DOT.

I. Introduction

In February 1998 the DM&E sought authority from the Surface Transportation Board (STB) to construct and operate a 280 mile rail line extension into the Powder River Basin (PRB). In December 1998 the STB issued a decision approving the transportation related aspects of the proposal. The Board found that the line, if built, would provide transportation benefits by enabling the DM&E to compete with the UP and the BNSF in the PRB.

To comply with the National Environmental Policy Act and other relevant environmental laws and regulations, STB's Section of Environmental Analysis (SEA) prepared an Environmental Statement (EIS) for the project. In September 2000, a Draft EIS was issued for public review and comment. SEA undertook extensive public outreach activities. In November 2001, the Final EIS was issued.

In January 2002, the STB issued a decision approving the proposed project. The Board concluded that DM&E's proposal would result in potentially significant adverse environmental impacts, but that the impacts would not be severe enough to warrant disapproving the proposed new line in view of the line's significant transportation and public benefits: (1) the introduction of a competitive route from the PRB that would be as much as 390 miles shorter than the other carriers' routes to the areas served by DM&E and (2) the attendant upgrade of DM&E's existing system, enabling improved service to DM&E's existing customers. Accordingly, the Board granted its approval for the line, subject to extensive environmental conditions (147 conditions in all) addressing both short-term (construction-related) impacts, and impacts related to longterm operation of unit coal trains.

After the Surface Transportation Board gave final approval to the Powder River Basin Expansion Project in 2002, various parties sought judicial review. In *Mid States Coalition for Progress v. STB*, 345 F.3d 520 (8th Cir. 2003), the 8th Circuit Court of Appeal upheld the Board with respect to all of the transportation issues and most of the environmental issues that were raised. But it directed the Board to give further consideration to (1) the environmental impacts of increased horn noise, (2) the relationship between vibration and horn noise, (3) potential increased coal consumption in the region to be served by the DM&E. The court also found that the Programmatic Agreement setting forth the Board's approach to the historic review required by the National Historic Preservation Act should have been executed prior to the time the Board granted a license to DM&E in this case.

II. Comments

Mn/DOT offers the following comments with respect to the environmental impacts of increased horn noise.

Mn/DOT supports the issues raised by the City of Rochester concerning horn noise issues.

1. We agree with the City of Rochester's assertion that train noise relief should be based on the total number of trains rather than on the number of tons of coal transported.
2. We also agree with the City of Rochester's contention that the construction of one or two grade separations within the city is unlikely to significantly impact horn noise in Rochester. Given the number of crossings in Rochester, and their relative proximity to each other, horn noise will not be significantly reduced by the construction of one or two grade separations.
3. Mn/DOT strongly encourages SEA to carefully review the City of Rochester's comments and concerns with respect to sensitive noise receptors and to consider incorporating the City's suggestions into the Final Supplemental Environmental Impact Statement.

Respectfully Submitted,



Allan J. Vogel, Director
Freight, Railroads & Waterways

