



Iowa Department of Transportation

800 Lincoln Way, Ames, IA 50010

515-239-1661
Fax: 515-233-1120

February 4, 2008

Vernon A. Williams, Secretary
Surface Transportation Board
395 E. Street, S.W.
Washington, DC 20423-0001

Dear Secretary Williams:

RE: STB Finance Docket No. 35081
Canadian Pacific Railway Company, et al – Control – Dakota,
Minnesota & Eastern Railroad Corp, et al

Enclosed are the Iowa Department of Transportation's environmental comments submitted to the attention of the Section of Environmental Analysis (SEA) in the above- referenced proceeding.

Sincerely,

Neil Volmer, Director
Planning, Programming & Modal Division

NV:plr

Enclosures

cc: Peggy Baer, Office of Rail Transportation, Iowa DOT
Tammy Nicholson, Planning, Programming & Modal Division, Iowa DOT

BEFORE THE
SURFACE TRANSPORTATION BOARD
Attention: Section of Environmental Analysis (SEA)

Finance Docket No. 35081
Canadian Pacific Railway Company, *et al*
--Control--
Dakota, Minnesota & Eastern Railroad Corp., *et al.*

Environmental Comments of the Iowa Department of Transportation on the above-referenced proceeding.

Prepared by:
Neil Volmer
Planning, Programming and Modal Division
Iowa Department of Transportation
800 Lincoln Way
Ames, IA 50010

Dated: February 4, 2008

BEFORE THE
SURFACE TRANSPORTATION BOARD
Attention: Section of Environmental Analysis (SEA)

Finance Docket No. 35081
Canadian Pacific Railway Company, *et al*
--Control--
Dakota, Minnesota & Eastern Railroad Corp., *et al*

Environmental Comments of the Iowa Department of Transportation on the above-referenced proceeding. Comments are on the December 5, 2007 application submitted by Canadian Pacific Railway Company (CPR).

Introduction:

In 2003, the Surface Transportation Board (STB) ruled in favor of the acquisition and control of the former I&M Rail Link (IMRL) (now called the Iowa, Chicago and Eastern Railroad Corporation or IC&E) by the Dakota, Minnesota & Eastern Railroad (DM&E).

On February 15, 2006, the STB (in Finance Docket No. 33407) granted DM&E authority to construct and operate 282 miles of new railroad lines to serve coal origins in Wyoming's Powder River Basin (PRB).

On October 18, 2006, the (STB) issued a Decision on Finance Docket 34177, involving the acquisition by Iowa, Chicago and Eastern Railroad Corporation (IC&E), of the former (IMRL). In that decision, the STB modified conditions imposed in paragraphs Number 2 and 3 of the July 22, 2002 decision to read as follows:

- (2) DM&E is precluded from transporting any Powder River Basin coal trains over the former IMRL rail lines until the Board issues a decision finding that the environmental review process is completed and, upon weighing and considering the complete record, allows such operations by DM&E over those rail lines.
- (3) DM&E shall prepare an Environmental Appendix for review by the board's Section of Environmental Analysis (SEA). Once SEA has approved the content of the Environmental Appendix, DM&E shall make the Environmental Appendix publicly available in the project area for review and comment in a manner deemed appropriate by SEA, and request that comments be sent directly to SEA. Following its review of all comments received, SEA will recommend to the Board what level of further environmental review, if any, is appropriate.

On December 4, 2006, the Iowa Department of Transportation (Iowa DOT) provided comments to the SEA on the Environmental Appendix provided by the DM&E relative to Finance Docket 34177. Our concerns and comments center on the appropriateness of the

process and the ability of Iowa shippers and communities to become involved and be provided opportunity for consideration of appropriate relief from any environmental impacts due to increased rail traffic resulting from the construction for the Powder River Project. Our position has not changed.

On January 30, 2007, the STB decided to proceed with preparation of a full environmental impact statement (EIS) on the environmental effects of the proposal by the DM&E to route coal trains from the PRB on the former IMRL (now IC&E) system in Iowa, Minnesota, Wisconsin and Missouri. At the request of DM&E, preparation of the EIS was put on hold.

On October 5, 2007, the Canadian Pacific Railway Company (CPR) submitted an Application for Approval of the Control of Dakota, Minnesota & Eastern Railroad Corporation.

Comments:

The Iowa DOT does not oppose the construction of the Powder River (PRB) project expansion of the DM&E. We raise our concerns about the potential long term impacts that PRB coal traffic may have on Iowa shippers and communities. 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 Iowa DOT recommends that the Board's previous determination that an EIS be completed before movement of PRB coal trains over the IC&E system be upheld (January 30, 2007 Press Release No. 07-07).

The Iowa DOT is in agreement with the modified conditions proposed in the Board's Decision No. 4, dated December 27, 2007 for FD 35081. These are as follows:

Applicants may not transport coal unit trains originating on the new rail line approved for construction in DM&E PRB Construction over lines currently operated by IC&E and /or CPR until the Board has prepared an Environmental Impact Statement, and has issued a final decision addressing the environmental impacts of such coal operations and allowed such operations to begin.

Prior to commencing any construction of the new rail line approved in DM&E PRB Construction, Applicant shall notify the Board of Applicants' intent to begin construction, and shall submit to the Board reasonably foreseeable projections regarding the movement of DM&E PRB coal traffic on the rail lines of IC&E and/or CPR, so that the environmental review can begin.

The Applicant, CPR, proposes that the Board defer any required analysis of the environmental impacts of the movement of PRB trains over the lines of IC&E and /or

CPR until such time as more definitive information regarding the likely volume and routing of those trains becomes available. The Applicant argues that definitive information regarding the likely volume, destination, and routing of DM&E PRB coal trains beyond DM&E's existing line cannot be determined with certainty in absence of definitive transportation contracts.

We ask the STB to place as a condition on the environmental review that the base traffic and the subsequent change in base traffic resulting from the DM&E PRB project will be as of today, 2008 traffic levels, and not as of some hypothetical construct developed by the Petitioner. Iowa DOT has never seen any reasonable estimates of the routing pattern and number of trains anticipated from the PRB.

In Iowa Department of Transportation's filings with the STB on DM&E/IC&E (IMRL) lines and PRB coal traffic, 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 of 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. An appropriate analysis of the impact of increased traffic, environmental impacts and cumulative impacts should be contained in the EIS. There needs to be a commitment from the DM&E and CPR on providing realistic traffic estimates, estimating the potential impact of those traffic levels and offering to mitigate some of those impacts. Between now and the time the PRB construction project begins, mutual agreements with Iowa communities can be developed and put in place.