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March 06, 2001

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Hon. Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423

Re: Finance Docket No. 33407, *Dakota, Minnesota and  
Eastern R. Corp. Construction into the Powder River  
Basin*

Dear Mr. Williams:

The purpose of this letter is to express again the support of our client, The National Industrial Transportation League, for the final approval of the application in the above proceeding, and to urge the Board and the cooperating agencies to issue promptly the final environmental impact statement. The League and its members support the grant of this application because of its strong and continuing commitment to principles of competition for the transportation industries. The League has adopted Rail Transportation Policies that are based on the fundamental premise that:

Rail competition, choice, and capacity are essential if the U.S. is to have affordable, effective rail service which advances the long-term competitiveness of U.S. business in the global economy.

U.S government policy towards railroads should maximize rail-to-rail competition and rely on the free market to protect consumers of rail transportation, encourage service improvements, and stimulate innovation.

Among the specific policies that the League's members have adopted to support this general policy is the following:

Development of alternative means of transportation (i.e. coal slurry pipelines, *new rail line development*, expanded marine, new technologies, etc.) should be encouraged.

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Letter to Mr. Williams

March 06, 2001

Page 2

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These policies are entirely consistent with the policies enacted by Congress to govern the Board's railroad regulatory functions. The first two statutory policies state that:

[I]t is the policy of the United States government —

- (1) to allow, *to the maximum extent possible*, competition and the demand for services to establish reasonable rates for transportation by rail;
- (2) to minimize the need for Federal regulatory control over the rail transportation system and to require fair and expeditious regulatory decisions when regulation is required.

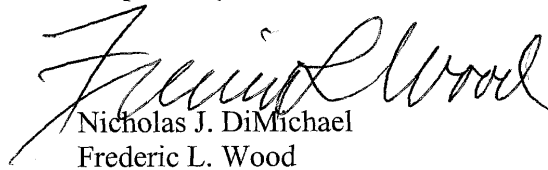
In the League's view, the proposed construction and rehabilitation project that is the subject of this proceeding is entirely consistent with these policies and should be approved. The applicant, Dakota, Minnesota and Eastern Railroad, has stated its intention to construct and operate a line of railroad that would provide additional rail-to-rail competition in the Powder River Basin. Both the Board and its predecessor, the Interstate Commerce Commission, have long recognized the importance of maximizing such competition in this important market. The additional competition that would be provided by the DM&E, and the free market forces that would apply, would help ensure that shippers obtain the rate and service levels that they require. The Board's conditional approval of the proposal in its decision served on December 10, 1998 is based on findings that the project would provide significant transportation benefits and would meet important public needs. Decision at 46-47.

The Board should not impose unnecessary regulatory barriers to this additional competition. In reviewing the environmental impacts under the National Environmental Policy Act and related statutes, and in considering any mitigating conditions on final approval of the application, the League urges the Board to carefully and expeditiously evaluate the environmental and related impacts of this project, so that its final decision on this important matter can be issued as soon as possible.

Letter to Mr. Williams  
March 06, 2001  
Page 3

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Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Frederic L. Wood".

Nicholas J. DiMichael  
Frederic L. Wood

Attorneys for The National Industrial  
Transportation League