

BEFORE THE
SURFACE TRANSPORTATION BOARD

Finance Docket No. 34178

- 216 687

DAKOTA, MINNESOTA AND
EASTERN RAILROAD CORPORATION
AND CEDAR AMERICAN RAIL
HOLDINGS, INC
-- CONTROL --
IOWA, CHICAGO & EASTERN
RAILROAD CORPORATION

**OPPOSITION TO PETITION OF DAKOTA, MINNESOTA AND EASTERN
RAILROAD CORPORATION TO REOPEN AND PARTIALLY MODIFY
CONDITIONS**

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Dated: June 1, 2006

BEFORE THE
SURFACE TRANSPORTATION BOARD

CITY OF DUBUQUE, IOWA	)	
	)	
Party of Interest	)	
	)	
v.	)	Finance Docket No. 34178
	)	
DAKOTA, MINNESOTA AND	)	
EASTERN RAILROAD CORPORATION	)	
AND CEDAR AMERICAN RAIL	)	
HOLDINGS, INC	)	
-- CONTROL --	)	
IOWA, CHICAGO & EASTERN	)	
RAILROAD CORPORATION	)	
	)	
Applicant	)	

**OPPOSITION TO PETITION OF DAKOTA, MINNESOTA AND EASTERN
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The City of Dubuque, hereinafter the City, replies in opposition to the petition of the Iowa, Chicago & Eastern Railroad Corporation (I C & E) and the 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 the 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.

The City requests that the STB deny the petition to waiver the conditions as originally issued in the 2002 decision. It is the City's understanding the STP's original intent of the IC & E routing restriction was to ensure a full environmental study of the impacts which could be expected from allowing coal traffic onto a route passing through Dubuque and other Iowa communities. Until recently, the City was not aware of the DM & E railroad's intent to significantly expand train traffic along the 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 Dubuque 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 may 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 Iowa communities about the impact increased coal traffic will have on their community, the City does not believe it is realistic to state that these matters, in particular environmental review and mitigation, will be resolved by 2009.

The City of Dubuque, Iowa is the oldest city in Iowa. Dubuque rests along the banks of the Mississippi River. The Mississippi River is the third largest river in the world and it drains nearly two-thirds of the continental United States. The former IC & E rail lines run through the City of Dubuque separating our riverfront from the rest of the city in two significant locations: the Northend/Kerper Boulevard area and a peninsula known as the Port of Dubuque.

The Northend/Kerper Boulevard area is located in the northeast portion of Dubuque. Significant structures in this area include an Army Corps of Engineer Lock and Dam, the City of Dubuque Municipal Services Center which provides critical infrastructure support for such city services as street maintenance, water distribution and solid waste removal, the City of Dubuque Water Distribution Center which provides water distribution for the entire city, Sutton Pool, McAleece Recreation Complex which includes a boat launch and youth and adult sports areas and the Kerper Boulevard Industrial Park which is home to several Fortune 500 companies and approximately 3,200 employees. Also located in this area are the on/off ramps to the Iowa/Wisconsin Bridge. Service delivery, particularly Police, Fire and Ambulance emergency response to and from this area will be significantly compromised with increased train traffic.

The Port of Dubuque is home to a \$188 million project known as *America's River*. The America's River development, is a result of a public/private partnership and includes a number of facilities and attractions including the Grand River Conference Center, Mississippi Riverwalk, the American Trust Rivers Edge Plaza, the Alliant Energy Amphitheater and most importantly the National Mississippi River Museum and Aquarium (NMRMA). Attached is a map of the Port of Dubuque for your review. The Port of Dubuque welcomes over 1.5 million tourists annually. Plans are already underway for *America's River* project Phase II which is anticipated to draw additional visitors to the area.

The impact of increase coal traffic along the former IC & E rail lines will present significant environmental and safety issues for the Port of Dubuque and the Northend/Kerper Boulevard area as well as the City of Dubuque.

Safety Issues

Currently the City averages 18 trains in a 24-hour period along this line. A recent study conducted by a regional transportation agency showed that traffic delays from current train traffic can last as long as 21 minutes per train. Our information suggests that this delay will increase significantly should additional train traffic be allowed to use this line. It has been estimated that up to an additional 17 trains per day each way may use this line as the result of the PRB expansion project. Not only do these delays impact local traffic, they impact regional traffic as well. State Highway 151/61 runs adjacent to the rail line with on and off ramps from the highway system feeding into local collector streets, including those that feed the Port of Dubuque street system. Twenty-one minute

delays create a significant hazard for traffic in and around the Port of Dubuque. In addition, twenty-one minute delays create a serious threat to emergency response vehicles that need access to and from the Port of Dubuque and the Northend/Kerper Boulevard area.

Environmental Issues

The NMRMA is the only national interpretive center for the Mississippi River. The museum and aquarium tells the important story of the Mississippi River and its habitat. From the wetlands, to backwater marshes to the bayou, the NMRMA provides important educational programming about the significance of the river to our nation's past, present and future. The NMRMA has joined in partnership with fourteen federal agencies, most notably US Fish and Wildlife, and also with the Smithsonian, to tell the important story of this globally significant river. In addition, the NMRMA is the first aquarium on the inland waterways to be designated a Coastal America Ecosystem Learning Center because of the relationship between the Mississippi River and the Gulf of Mexico. Included on the campus of the NMRMA is the Wm. Black Steamboat, one of three designated National Landmarks in Dubuque and one of only twenty-four in the State of Iowa. Also located on the campus is the former Burlington Northern railroad depot, constructed in 1888 and restored in 2003. This depot lies adjacent to the active rail line. Lastly, the Port of Dubuque is also home to the Dubuque Star Brewery and the Historic Shot Tower. The Shot Tower is currently listed on the National Register of Historic Places and the State of Iowa Landmarks list and designation as a National Landmark is underway.

Just south of the Port of Dubuque is a 1200 acre nature preserve known as the Mines of Spain which includes the Julien Dubuque Mines, also a National Landmark. Established by Native American tribes over thousands of years ago, this nature preserve is noted for both its archeological significance and also for its natural beauty. A one of a kind nature preserve in the state, it is managed through a unique partnership of the City and State of Iowa department of Natural Resources. The Mines of Spain provides an area for biking, hiking, canoeing and outdoor educational programming.

As mentioned, the Port of Dubuque, the Mines of Spain and the North End/Kerper Boulevard area are situated adjacent to the rail line and will feel a direct impact by the increase of coal traffic on the line. The City is also concerned about the impact of noise from the coupling/decoupling of railroad cars and the lack of maintenance on wheels that causes noise as they move. These are tourist, educational, historic and conservation areas that will be significantly and negatively impacted by coal traffic. Environmental mediation to address public safety and environmental concerns needs to be carefully and judiciously designed and implemented to safeguard against increased coal traffic.

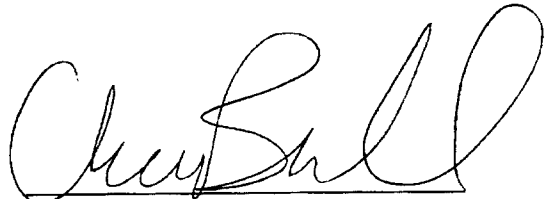
According to the DM & E waiver request "It is difficult to market or finance without viable, confirmed routing options. Customers need assurances not just that we can reach a market – particularly in markets like Chicago." In the same way, it is difficult for cities such as Dubuque to rely simply on the word of the 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 importance 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 this increased customer base would have on communities where train traffic would be increased. Since 2002 the DM & E has received directives on the appropriate steps necessary to protect the environment and safety of these communities, but has taken few steps to initiate a dialog with other potentially impacted communities related to the new filing. Additionally, the DM & E petition does not specify what amount of train traffic might move from the DM & E mainline onto the IC & E line impacting Dubuque and other Iowa communities. The dialog began only as a result of obstacles the DM&E faced in trying to obtain financing for the Powder River Basin project. The City of Dubuque urges you to preserve the measures put in place by the STB in 2002 and deny the waiver request of DM & E.

The City of Dubuque requests this information be admitted as a pleading and that the City of Dubuque be recognized as a party of record.

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2006, a copy of the foregoing
**OPPOSITION TO PETITION OF DAKOTA, MINNESOTA AND EASTERN
RAILROAD CORPORATION TO REOPEN AND PARTIALLY MODIFY
CONDITIONS** was served by the first class mail, postage prepaid, upon all
parties of record in Finance Docket No. 34178.

A handwritten signature in black ink, appearing to read 'Crenna Brumwell', written over a horizontal line.

Crenna Brumwell, Esq.
Assistant City Attorney

Port of Dubuque Landmarks

-  Dubuque Star Brewery
-  William M. Black
-  Shot Tower
-  National Mississippi River Museum
-  Railroads
-  At Grade Crossings



Map Prepared by DJ
 Base Data Provided by Dubuque County GIS
 H-Planning Services/Port Of Dubuque/Port of Dubuque Landmarks

