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July 14, 2006

VIA FEDERAL EXPRESS

Mr. Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 700
Washington, DC 20006

ENTERED
Office of Proceedings

JUL 17 2006

Part of
Public Record



Re: **Finance Docket No. 34871**
Wyoming Dakota Railroad Properties, Inc. -- Acquisition and
Operation Exemption -- Dakota, Minnesota & Eastern Railroad Corp.

Dear Secretary Williams:

Wyoming Dakota Railroad Properties, Inc. ("WDRPI"), on behalf of itself and its affiliates Dakota, Minnesota & Eastern Railroad Corporation ("DM&E") and Iowa, Chicago & Eastern Railroad Corporation ("IC&E"), hereby submits this brief response to the letter comments of the City of Dubuque, Iowa ("Dubuque") dated June 29, 2006 in the above-captioned proceeding. Dubuque's letter was not served on WDRPI, and does not appear to have been filed as a formal pleading with the Board.

While not a community located on either the existing lines of DM&E or the lines to be constructed pursuant to authority granted to DM&E in Finance Docket No. 33407 (the "PRB Construction" case), which authority would be transferred to WDRPI in this docket, Dubuque states without explanation that it is opposed to such a transfer because it could "undermine" the environmental conditions and mitigation measures imposed by the STB on DM&E in PRB Construction.

Dubuque candidly acknowledges that DM&E/IC&E have communicated with Dubuque regarding any concerns that it may have over increased train movements, and that it appreciates such communications. Since Dubuque is not located on any of the lines involved in this proceeding or the PRB Construction proceeding, Dubuque's comments here seem directed either toward reopening the environmental review process in the PRB Construction case and extending that review to itself, or somehow obtaining leverage in any private negotiations with DM&E/IC&E. Neither affords any legal or rational basis to revoke WDRPI's exemption in this proceeding.

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As discussed at length in WDRPI's June 28, 2006 reply to the petitions to revoke of Mayo Clinic Rochester, City of Rochester and Olmsted County, Minnesota in this proceeding, the proposed transfer of construction authority from DM&E to WDRPI will not in any way undermine or obviate the need to comply with the environmental mitigation conditions imposed by the STB in the PRB Construction case. By affording additional flexibility in financing the PRB project, it will enhance the prospect that the substantial public benefits of the PRB project will be realized. DM&E and WDRPI will each have access to the funds necessary to comply with the environmental mitigation conditions applicable to its lines. Moreover, DM&E has expressly represented to the Board in the PRB Construction case itself that after transfer of construction authority to WDRPI, DM&E will remain directly responsible for the environmental and mitigation conditions imposed by the STB in that proceeding with respect to its existing lines. Dubuque has neither a credible interest in those conditions nor a credible basis to claim that the conditions will not be fulfilled.

To the extent that Dubuque has legitimate concerns about train movements through its own community, DM&E and IC&E have a demonstrated track record in working with local communities and voluntarily addressing such matters in an effective and efficient manner. DM&E entered into negotiated agreements with 55 of 56 on-line DM&E communities in the PRB Construction proceeding, and IC&E has worked closely with its own on-line communities to address any issues they may have. One such community, the City of Bellevue, Iowa -- which had submitted comments in Finance Docket Nos. 34177 and 34177 analogous to Dubuque's own comments in those dockets and here -- recently withdrew those comments and is working towards a more productive voluntary arrangement with IC&E. The same can and should be true with respect to Dubuque.

Finally, to the extent that Dubuque does in fact seek to use its letter in this proceeding to supplement its prior comments in Finance Docket Nos. 34177 and 34178 (the acquisition and control proceedings relating to IC&E's acquisition of the rail line of the former I&M Rail Link, LLC), the issues raised by Dubuque were fully addressed by DM&E/IC&E in their reply filed June 21, 2006 in those proceedings. As discussed there, the comments of Dubuque conflate the IC&E acquisition and control proceedings with the PRB build-in project previously considered and approved by the Board after an exhaustive 8-year review in PRB Construction. In the Board's own words, however, the IC&E acquisition and control transactions are "separate and distinct" from the PRB construction project and "not two links of a single chain." Moreover, the Board has expressly declined to impose mitigation to remedy conditions that are not a direct result of the transaction before it or an incremental effect of that transaction when considered "cumulatively" with a prior transaction.

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For the reasons stated herein and in WDRPI's prior reply, the Board should deny the pending petitions to revoke, lift the housekeeping stay entered in the June 19th decision in this docket and Finance Docket No. 34872 and allow WDRPI's exemption to become effective.

Ten copies of this letter are enclosed for filing at the Board. One extra copy also is enclosed, and I would request that you date-stamp that copy to show receipt of this filing and return it to me in the provided envelope. Thank you for your assistance on this matter.

Respectfully submitted,



William C. Sippel
Attorney for Wyoming Dakota
Railroad Properties, Inc.

WCS:tjl

Enclosures

cc: Parties of Record