

**SURFACE TRANSPORTATION BOARD ISSUES FINAL PROCEDURAL SCHEDULE RE "DM&E" RAILROAD
CONSTRUCTION & OPERATION APPLICATION**

Surface Transportation Board (Board) Chairman Linda J. Morgan announced today that the Board has issued a final procedural schedule providing for the issuance of a decision, within 180 days, on the Dakota, Minnesota & Eastern Railroad Corporation's (DM&E) railroad construction and operation application that will address whether the application satisfies the criteria of Section 10901 of Title 49, United States Code (49 U.S.C. 10901), concerning rail line construction and operation. The Board emphasized that the final schedule issued today was adopted specifically for resolving transportation issues attendant to DM&E's proposal, as opposed to environmental issues. [FOOTNOTE 1: Concerning which the Board's Section of Environmental Analysis issued a March 27, 1998, notice of its intent to prepare an Environmental Impact Statement, which schedules Board and public scoping meetings between April 29 and June 30, 1998.]

On March 11, 1998, the Board published a notice of DM&E's application to construct and operate 280.9 miles of new railroad line that would provide for an extension of DM&E's existing main railroad line into the Powder River Basin coal fields in northeastern Wyoming. That notice requested comments on a procedural schedule and required DM&E to have new notices published setting forth the schedule issued by the Board today.

The Board stated that its final procedural schedule was adopted in the interest of fairness and in balancing competing concerns in this case. The Board said that its schedule will ensure that all parties are given due process, will allow for adequate public participation, will provide ample opportunity for the filing of evidence and argument in opposition to DM&E's application, and will facilitate the development of a public record sufficient for the Board to make an informed decision on the merits (not including the environmental impacts) of DM&E's proposal.

In its decision announcing the final schedule, the Board emphasized that (1) interested persons need not participate formally as "parties of record" in this phase of the case addressing the transportation merits of DM&E's application to participate fully in the environmental phase of the case; (2) that the "cross service" of documents (that is, the interchange of documents among all those officially participating as parties of record) being required in the transportation merits phase of this case is not ordinarily required as part of the environmental review process; and (3) that the findings of SEA's environmental-review process and full consideration of environmental issues will be included in deliberations leading to a final decision either to grant or deny DM&E's application.

The final procedural schedule issued by the Board in the case entitled *Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin* (formerly titled *Dakota, Minnesota & Eastern Railroad Corporation--Construction and Operation--in Campbell, Converse, Niobrara, and Weston Counties, WY, Custer, Fall River, Jackson, and Pennington Counties, SD, and Blue Earth, Nicollet, and Steele Counties, MN*), Finance Docket No. 33407, is attached.

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ATTACHMENT

PROCEDURAL SCHEDULE

In the following schedule, the term "P" designates the date that the Board issues this procedural schedule and "P + n" means "n" days following that date.

P: Procedural schedule established by the Board.

P + 7: Due date for publication by DM&E of newspaper notice announcing the procedural schedule.

P + 20: Due date for notices of intent to participate as a party of record.

P + 35: Due date for written comments on transportation aspects of the Application.

P + 40: Due date for DM&E's replies to written comments on transportation aspects of the Application.

P + 70: Board decision ordering hearing under modified procedures.

P + 115: Due date for evidence and argument in opposition to the transportation aspects of the Application.

P + 135: Due date for DM&E's reply evidence and argument in support of the transportation aspects of the Application.

P + 180 (or earlier): Service of preliminary decision on whether the transportation criteria of section 10901 have been met.