

SURFACE TRANSPORTATION DECISION ISSUES FINAL DECISION ON “DAKOTA, MINNESOTA & EASTERN’S” POWDER RIVER BASIN EXPANSION PROJECT

The Surface Transportation Board announced that it has issued a decision today granting final approval to Dakota, Minnesota & Eastern Railroad (DM&E) to construct a 280-mile rail line into Wyoming’s Powder River Basin, subject to extensive environmental mitigation conditions.

In today’s decision, the Board: (1) addresses the four environmental issues remanded by the U.S. Court of Appeals in *Mid States Coalition for Progress v. STB*, 345 F.3d 520 (8th Cir. 2003); (2) reaffirms that the proposed project will have transportation benefits and will further the public interest; and (3) reimposes 147 environmental mitigation conditions, one of which has been expanded from the Board’s prior decision issued in 2002.

The issuance of this decision completes the Board’s review of DM&E’s proposed construction project.

The STB’s [decision approving the construction project in the case entitled Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin, STB Finance Docket No. 33407](#), is available for viewing and downloading via the Boards Web site at <http://www.stb.dot.gov>, under E-Library, then under Decisions & Notices, beneath the date “2/15/06.” A printed copy of the Board’s decision also is available for a fee by contacting **ASAP Document Solutions, 9332 Annapolis Rd., Suite 103, Lanham, MD 20706, telephone (202) 306-4004, or via asapdc@verizon.net**. A fact sheet is attached.

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FACT SHEET

Dakota, Minnesota & Eastern Railroad Corporation Construction into the Powder River Basin, STB Finance Docket No. 33407

After the Board approved the construction of this new line in 2002, various parties sought judicial review. In *Mid States Coalition for Progress v. STB*, 345 F.3d 520 (8th Cir. 2003), the court upheld the Board with respect to all of the transportation issues and most of the environmental issues that were raised. However, the court directed the Board to give further consideration to four environmental issues: (1) the question of whether mitigation for increased horn noise is warranted; 2) the relationship between vibration and horn noise; (3) the impact of any potential increased coal usage and related air emissions from this project; and (4) assurances that the procedures to govern the historic review were in place.

The Board’s Section of Environmental Analysis (SEA) then conducted an independent analysis of the four issues remanded by the court and prepared a Supplemental Environmental Impact Statement (SEIS) setting forth its conclusions and mitigation recommendations. In its decision, the Board reviewed SEA’s supplemental environmental analysis and concurred with and adopted the SEIS. As directed by the court, the Board reweighed the merits of DM&E’s underlying proposal to reflect the results of the SEIS and concluded that, despite certain potential adverse environmental impacts, not all of which can be fully mitigated, the proposed project has demonstrated transportation benefits and would further the public interest. Accordingly, the Board gave final approval to DM&E’s application, subject to 147 environmental mitigation conditions. This decision can be found on the Board’s Web site.