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OEA

SERVICE DATE – DECEMBER 27, 2013

**SURFACE TRANSPORTATION BOARD**  
WASHINGTON, DC 20423

**ENVIRONMENTAL ASSESSMENT**

**Docket No. AB 337 (Sub-No. 7X)**

**Dakota, Minnesota & Eastern Railroad Corporation – Abandonment Exemption –  
in Scott County, Iowa**

**BACKGROUND**

In this proceeding, the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) filed a notice of exemption under 49 C.F.R. § 1152.50 seeking exemption from the requirements of 49 U.S.C. § 10903 in connection with the abandonment of a line of railroad in Scott County, Iowa. The rail line proposed for abandonment extends approximately 0.66 miles from milepost 0.33 to milepost 0.99 in the City of Davenport (the line). A map depicting the line in relationship to the area served is appended to this Environmental Assessment (EA). If the notice becomes effective, the railroad will be able to salvage track, ties and other railroad appurtenances and to dispose of the right-of-way.

**ENVIRONMENTAL REVIEW**

DM&E submitted an Environmental Report that concludes the quality of the human environment would not be affected significantly as a result of the abandonment or any post-abandonment activities, including salvage and disposition of the right-of-way. DM&E served the Environmental Report on a number of appropriate federal, state, and local agencies as required by the Surface Transportation Board's (Board) environmental rules [49 C.F.R. § 1105.7(b)].<sup>1</sup> The Board's Office of Environmental Analysis (OEA) has reviewed and investigated the record in this proceeding.

According to DM&E, the line, referred to as the Blackhawk Spur, is the remaining segment of the Clinton Davenport and Muscatine Railway (CD&M) line from Davenport to Muscatine. This line was originally constructed in 1904 by two independently run railroads, the Iowa Illinois Railway from Clinton to Davenport and the Davenport and Muscatine Railway from Davenport to Muscatine. In 1912, the two rail lines merged and in 1926 became the CD&M. The CD&M began as an electric interurban passenger railway, but later moved both passengers and freight. In 1938, due to a decline in both freight and passenger traffic, the Davenport to Muscatine line was abandoned except for the remaining segment within the City of

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<sup>1</sup> The Environmental and Historic Reports are available for viewing on the Board's website at [www.stb.dot.gov](http://www.stb.dot.gov) by going to "E-Library," selecting "Filings," and then conducting a search for AB 337 (Sub-No. 7X).

Davenport. DM&E acquired the line in 2002 when it purchased the I&M Rail Link and created its operating subsidiary, the Iowa, Chicago and Eastern Railroad. The line has been out of service for more than two years. Other than the removal of track and ties, no changes are contemplated as a result of the proposed abandonment. The line lies entirely within the City of Davenport in a primarily commercial, residential, and industrial area where the topography is generally flat.

### ***Diversion of Traffic***

According to DM&E, no local traffic has moved over the line for at least two years and all overhead traffic has been routed over other lines. Accordingly, the proposed abandonment would not adversely impact the development, use and transportation of energy resources or recyclable commodities; transportation of ozone-depleting materials; or result in the diversion of rail traffic to truck traffic that could result in significant impacts to air quality or the local transportation network.

### ***Salvage Activities***

Impacts from salvage and disposal of a rail line typically include removal of tracks and ties, removal of ballast, dismantling of any bridges or other structures that may be present on the rail right-of-way, and regrading of the right-of-way. Salvage may be performed within the right-of-way, or, if necessary, via the construction of new access points to the right-of-way.

If the proposed abandonment becomes effective, DM&E plans to remove all rails, ties, spikes, plates, railroad-related utilities, and signaling devices. All equipment and materials that are removed from the line would be reused, sold as scrap, or disposed of in an appropriate manner and in accordance with applicable environmental regulations.

DM&E is not aware of any restriction on title to the property, including any reversionary interest, which would affect the transfer of title or the use of the property for other than rail purposes. The property may be suitable for other public uses. DM&E does not believe that the proposed action would be inconsistent with any existing land use plans. DM&E is unaware of any ground disturbances or fills other than those which would have occurred during original construction of the line and any subsequent maintenance or rehabilitation that may have occurred prior to 2002, when DM&E purchased the line. DM&E does not believe that public health and safety would be affected adversely by the proposed abandonment and related salvage activities.

The National Geodetic Survey has advised OEA that no geodetic station markers have been identified that may be affected by the proposed abandonment.

The Iowa Department of Natural Resources (DNR) has searched for records of rare wildlife species and significant natural communities in the project area and found no site specific records that would indicate impacts to wildlife as a result of the proposed abandonment and related salvage activities. DM&E states that no sanctuaries, state parks, or refuges would be

adversely affected by the proposed abandonment and DM&E does not anticipate any adverse effects to fish and wildlife. The line is not within a designated Coastal Zone Management Area.

DNR has records of two high risk leaking underground storage tank (LUST) sites within 1000 feet of the proposed rail line abandonment. Neither site is immediately adjacent to the rail line. A diesel fuel release has been identified adjacent to the right-of-way at the Gene Meyer Oil Company in a July 2013 Phase I Environmental Site Assessment (ESA). No impacts would be expected at the site as a result of the proposed abandonment and related salvage activities.

DNR has indicated that unavoidable adverse impacts to waters of the United States (including wetlands) should be minimized to the extent practicable, and has asked that Best Management Practices (BMPs) be used by DM&E to control erosion and protect water quality near the project. DM&E has indicated that it will use BMPs during salvage activities to prevent any impact on water quality. In addition, DNR has indicated that several air quality programs it administers may apply to the proposed abandonment and related salvage activities. OEA will recommend a condition requiring that DM&E consult with DNR prior to commencing any salvage activities to address DNR's concerns about the use of Best Management Practices to protect water quality and to determine the applicability of DNR's air quality program requirements to salvage activities.

The U.S. Department of the Army Corps of Engineers, Rock Island District (Corps) has determined that the proposed abandonment and related salvage activities, based on the information provided by DM&E, does not require a Corps Section 404 permit. No discharge of dredged or fill material is expected to occur in waters of the United States (including wetlands). DM&E has determined that no designated wetlands or 100-year flood plains would be adversely affected by the proposed abandonment, and does not believe that permits under Section 402 of the Clean Water Act would be required as no in-stream salvage activities are contemplated.

OEA believes that any air emissions associated with salvage operations would be temporary and would not have a significant impact on air quality. Noise associated with salvage activities would also be temporary and should not have a significant impact on the area surrounding the proposed abandonment.

Based on all information available to date, OEA does not believe that salvage activities would cause significant environmental impacts

## **HISTORIC REVIEW**

DM&E submitted an historic report as required by the Board's environmental rules [49 C.F.R. § 1105.8(a)] and served the report on the Iowa Department of Cultural Affairs, State Historic Preservation Office (SHPO) pursuant to 49 C.F.R. § 1105.8(c). The SHPO has indicated that it needs additional information on sites, buildings structures and objects within the right-of-way from DM&E before it can make any recommendations about whether there appears to be any potential that the undertaking would encounter or adversely impact historic properties that may be eligible for listing in the National Register of Historic Places. Accordingly, OEA is

recommending a condition requiring the railroad to retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures and objects within the project right-of-way (the Area of Potential Effect) eligible for listing or listed in the National Register of Historic Places until completion of the Section 106 process. Guidance regarding the Board's historic preservation review process is available on the Board's website at <http://www.stb.dot.gov/stb/environment/preservation.html>.

Pursuant to 36 C.F.R. § 800.2, OEA conducted a search of the Native American Consultation Database to identify federally-recognized tribes that may have ancestral connections to the project area.<sup>2</sup> The database indicated that ten federally-recognized tribes (Flandreau Santee Sioux Tribe of South Dakota, Lower Sioux Indian Community in the State of Minnesota, Prairie Island Indian Community in the State of Minnesota, Sac and Fox Nation of Missouri in Kansas and Nebraska, Sac and Fox Nation in Oklahoma, Sac and Fox Tribe of the Mississippi in Iowa, Sac and Fox Nation in Nebraska, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation in South Dakota, Spirit Lake Tribe in North Dakota, and the Upper Sioux Community in Minnesota) may have knowledge regarding properties of traditional religious and cultural significance within the APE of the proposed abandonment. Accordingly, OEA is sending a copy of this EA to those tribes for review and comment.

## **CONDITIONS**

OEA recommends that the following environmental conditions be imposed on any decision granting abandonment authority:

1. Dakota, Minnesota & Eastern Railroad Corporation (DM&E) shall, prior to conducting any salvage activities related to the abandonment, consult with the Iowa Department of Natural Resources (DNR) to address DNR's concerns about the use of Best Management Practices to protect water quality and to determine the applicability of DNR's air quality program requirements.
2. Dakota, Minnesota & Eastern Railroad Corporation (DM&E) shall retain its interest in and take no steps to alter the historic integrity of all historic properties including sites, buildings, structures, and objects within the project right-of-way (the Area of Potential Effect) that are eligible for listing or listed in the National Register of Historic Places until the Section 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f, has been completed. DM&E shall report back to the Office of Environmental Analysis (OEA) regarding any consultations with the Iowa Department of Cultural Affairs, State Historic Preservation Office (SHPO) and the public. DM&E may not file its consummation notice or initiate any salvage activities related to abandonment (including removal of tracks and ties) until the Section 106 process has been completed and the Board has removed this condition

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<sup>2</sup> Native American Consultation Database, <http://home.nps.gov/nacd/> (last visited December 19, 2013).

## **CONCLUSIONS**

Based on the information provided from all sources to date, OEA concludes that, as currently proposed, and if the recommended conditions are imposed, abandonment of the line would not significantly affect the quality of the human environment. Therefore, the environmental impact statement process is unnecessary.

Alternatives to the proposed abandonment would include denial (and therefore no change in operations), discontinuance of service without abandonment, and continued operation by another operator. In any of these cases, the existing quality of the human environment and energy consumption should not be affected.

## **PUBLIC USE**

Following abandonment and salvage of the rail line, the right-of-way may be suitable for other public use. A request containing the requisite 4-part showing for imposition of a public use condition (49 C.F.R. § 1152.28) must be filed with the Board and served on the railroad within the time specified in the Federal Register notice.

## **TRAILS USE**

A request for a notice of interim trail use (NITU) is due to the Board, with a copy to the railroad, within 10 days of publication of the notice of exemption in the Federal Register. Nevertheless, the Board will accept late-filed requests as long as it retains jurisdiction to do so in a particular case. This request must comply with the Board's rules for use of rights-of-way as trails (49 C.F.R. § 1152.29).

## **PUBLIC ASSISTANCE**

The Board's Office of Public Assistance, Governmental Affairs, and Compliance responds to questions regarding interim trail use, public use, and other reuse alternatives. You may contact this office directly at (202) 245-0238, or mail inquiries to Surface Transportation Board, Office of Public Assistance, Governmental Affairs, and Compliance, Washington, DC 20423.

## **COMMENTS**

If you wish to file comments regarding this Environmental Assessment, send original and 2 copies to Surface Transportation Board, Case Control Unit, Washington, DC 20423, to the attention of Kenneth Blodgett, who prepared this Environmental Assessment. Environmental comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link. **Please refer to Docket No. AB 337 (Sub-No. 7X) in all correspondence, including e-filings, addressed to the Board.** If you have any questions

regarding this Environmental Assessment, please contact Kenneth Blodgett by phone at (202) 245-0305, fax at (202) 245-0454, or e-mail at [blodgettk@stb.dot.gov](mailto:blodgettk@stb.dot.gov).

Date made available to the public: December 27, 2013.

**Comment due date: January 13, 2014.**

By the Board, Victoria Rutson, Director, Office of Environmental Analysis.

Attachment