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SEC

SERVICE DATE - SEPTEMBER 15, 1998

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33407

DAKOTA, MINNESOTA & EASTERN RAILROAD CORPORATION CONSTRUCTION
INTO THE POWDER RIVER BASIN

Decided: September 14, 1998

By decision served May 7, 1998, as corrected, the Board issued a procedural schedule in this proceeding which set May 27, 1998, as the due date for notices of intent to participate in the proceeding as a party of record.¹ On June 5, 1998, we published a service list, as corrected, specifying the parties of record. On August 31, 1998, we received several letters (see the attached list, Appendix A) from persons requesting that they be put on the service list and be made parties of record. These letters state that, since replies are not due until September 21, 1998, “. . . being admitted now would not disadvantage another party.” We will deny these requests to be made a party of record, but will place these individuals in “VIS” status on the service list for this proceeding, which means that they will receive copies of all future decisions we issue. Also, we note that these individuals may still participate in the ongoing environmental process concerning this proceeding.²

¹ The schedule also set a due date of August 31, 1998, for evidence and argument in opposition to the transportation aspects of the application, and a due date of September 21, 1998, for reply evidence and argument. We anticipate issuing a decision by November 3, 1998.

² The Board's Section of Environmental Analysis (SEA) has previously held agency and public scoping meetings and has accepted written public comments as part of the ongoing environmental impact statement (EIS) process for this proceeding. On June 10, 1998, SEA developed and made available a draft scope of study for the EIS and provided an opportunity for public review and comment. On August 7, 1998, SEA published an Amended Notice of Intent to notify persons and agencies interested in or affected by the proposed project of additional agency decisions by the Forest Service (U.S. Department of Agriculture), the Bureau of Land Management (U.S. Department of the Interior), and the U.S. Army Corps of Engineers, that will be triggered by the project, and to seek additional comments relating to these agency decisions. Also, this notice advised the public that the Board would be the lead agency and that the other agencies would be cooperating agencies. The Board and these cooperating agencies provided an additional thirty-day period, which closed on September 8, 1998, for the public to submit written comments on the draft scope and the August 7th Amended Notice of Intent. Following the

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We are denying these requests because they were made over three months after they were due and because they would unduly burden those persons who timely requested to be parties of record. If the petitioning individuals became parties of record now, it would mean that all previous filings by all current parties of record would have to be served upon them. This, contrary to the views expressed in the letters, would be quite burdensome to the parties that have complied with the established schedule for this proceeding.

Board decisions and notices are available on our website at “WWW.STB.DOT.GOV.”

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The petitions filed by the persons listed in the attached Appendix A requesting that they be made parties of record are denied.
2. The persons listed in the attached Appendix A will be placed in “VIS” status on the service list for this proceeding.
3. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

²(...continued)

additional comment period, SEA will issue a final scope of study for the EIS, which will be made available to the public. Thereafter, SEA, working with the cooperating agencies, will prepare a Draft Environmental Impact Statement (DEIS) for the proposed project. The persons listed in Appendix A are invited to submit comments on the DEIS.

Appendix A

Robert Burns
1715 Orchard Avenue
Brookings, SD 57006

Dorothy Butler
1626 Derdall Drive
Brookings, SD 57006

Robert Fishback, Chairman
First Nat'l Bank in Brookings
5th St. & 5th Avenue
Brookings, SD 57006

Larry W. Goodson
P.O. Box 1271
Sundance, WY 82729

Ralph Gustin
1426 Legeros Drive
Brookings, SD 57006

Leslie Hammock
1333 Orchard Drive
Brookings, SD 57006

Monte K. Harming
1014 1st Street
Brookings, SD 57006

Wayne Hauschild, Mayor
City Hall
311 3rd Avenue
Brookings, SD 57006

Edward Hogan
Chairman
Railroad Ad Hoc Committee
Brookings, SD 57006

Ronald Howard
1808 Derdall Drive
Brookings, SD 57006

Paul J. Johnson
1926 Derdall Drive
Brookings, SD 57006

Gary Larson
1345 Orchard Drive
Brookings, SD 57006

Edwin J. Luetzow, CEO
MTR, Inc.
201 32nd Avenue
Brookings, SD 57006

Robert Pollmann
1803 Orchard Drive
Brookings, SD 57006

Maxine R. Ripley
435 State Highway 111
Aladdia, WY 82710

David Walder
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Brookings, SD 57006