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ALJ

SERVICE DATE - MARCH 3, 2000

SURFACE TRANSPORTATION BOARD

DECISION

STB Finance Docket No. 33407

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

Decided: February 29, 2000

By a pleading dated October 27, 1999, described as a preliminary objection, Dakota, Minnesota & Eastern Railroad Corporation (DM&E) objected to the Fourth Set of Interrogatories and Requests for Production of Documents served on it October 12, 1999, by the City of Rochester, Minnesota (Rochester). By a decision served February 2, 2000 (February 2 decision), that preliminary objection was sustained.

On or about February 4, 2000, Rochester filed its motion for reconsideration of that decision and to compel the answers and documents sought. The time for replies to that motion has elapsed. See 49 CFR 1104.13(a). None has been filed.

Reconsideration of the February 2 decision has led to the conclusion that it was erroneous.

It is, therefore ordered:

1. Rochester's motion is granted.
2. The February 2 decision is vacated.
3. Within ten days after the service date of this decision, DM&E must answer Rochester's Fourth Set of Interrogatories.
4. Within ten days after the service date of this decision, DM&E must comply with Rochester's Requests for Production of Documents.

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This decision is effective on the service date.

By the Board, Joseph R. Nancy, Administrative Law Judge.

Vernon A. Williams  
Secretary