

**SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES
JULY 5, 2017 – 11:00 A.M.
BECKER-HANSEN BUILDING – 700 EAST BROADWAY
PIERRE, SOUTH DAKOTA**

MEMBERS PRESENT: Todd Yeaton, Chair
Sheldon Cotton, Vice Chair
Jeff Burket, Member
Jerry Cope, Member
Gary Doering, Member
Harlan Quenzer, Member

DOT STAFF PRESENT: Darin Bergquist, Karla Engle, Jack Dokken, Bonnie Olson,
Lynn Kennison, Misty Siedschlaw, and Tessa Wenner

**OTHERS PRESENT
VIA CONFERENCE CALL:** Ed Sedlacek

OTHERS PRESENT: Alex Huff, Jeff Cooley, Brian Hammerback, Tom Lich, Bart Banks, Jeremy Hand, Jack Parliament, Rich Everitz, Dick Huff, Dustin Buntrock, Heath Haden, Clark Zagoon, Shawn Engel, Rick Vallery, and Mike Berg

Chair Yeaton called the meeting of the South Dakota State Railroad Board meeting to order at 11:05 a.m. Roll call was taken and a quorum was determined.

Chair Yeaton opened the floor to the South Dakota State Railroad Board ("the Board") members to disclose potential conflicts of interest and to present requests for waivers pursuant to South Dakota Codified Law (SDCL) chapter 3-23.

Cope disclosed a potential conflict in the consideration of Dakota Mill & Grain, Inc.'s proposal listed on the agenda. Cope previously provided a written letter of disclosure, dated June 16, 2016, to the Board requesting a waiver. At the Board's regular meeting held on July 20, 2016, the Board determined the matter underlying the conflict was fair, reasonable, and not contrary to the public interest, but required that Cope disclose the details of any specific contracts or other conflicts of which he becomes aware for the Board's particular consideration. Cope explained that he is employed by Dakota Mill & Grain, Inc. Cope will abstain from the discussion and vote on the Board's consideration of a proposal by Dakota Mill & Grain, Inc.

A MOTION WAS MADE by Quenzer and seconded by Burket that the essential terms of the contract or transaction is fair, reasonable, and not contrary to the public interest. All present

voted aye by roll call vote, except Cope, who abstained from the Board discussion and vote. The motion carried.

Chair Yeaton asked for a motion to approve the minutes of May 17, 2017.

A MOTION WAS MADE by Cope and seconded by Burket to approve the May 17, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

Darin Bergquist, Secretary of the Department of Transportation (the "Department"), had no updates for the Board.

Heath Haden of Dakota Southern Railway Company ("DSRC") presented the Board with a proposal to purchase State-owned property. DSRC, on behalf of Dakota Rail Park LLC, is proposing to purchase 2.88 acres of State-owned land on the Napa Junction line at \$24,000.00 per acre. The land would be purchased by Dakota Rail Park LLC. This land would be used for rail infrastructure only.

A MOTION WAS MADE by Cotton and seconded by Doering to authorize the Department to enter into an agreement to sell Lot 3 of Lot 1 of the Dakota Rail Park subdivision at a price equal to the price Dakota Plains originally purchased the property. The agreement would include a provision that the property only be used for railroad trackage and if the property was ever not used for such purposes the property would revert back to the Department of Transportation. Also, the Department would negotiate and execute a temporary easement to facilitate the construction of trackage on the purchased property and the facility to be served by the railroad trackage would only be served by the State's operator on the Napa-Ravinia line.

THE MOTION WAS WITHDRAWN by Cotton with the consent of Doering.

A MOTION WAS MADE by Burket and seconded by Doering to authorize the Department to enter into an agreement to lease Lot 3 of Lot 1 of the Dakota Rail Park subdivision to Dakota Rail Park, LLC, and include appropriate language to facilitate construction of the first storage track centered on the property line between the LLC's property and the State's railroad right of way. In addition, the track could only be accessed by the State's operator on the Napa-Ravinia line. A roll call vote was taken with all present voting. Three members voted nay (Cotton, Cope, and Quenzer) and three members voted aye (Doering, Yeaton, and Burket). The motion failed.

The Board requested additional clarification and additional discussion ensued.

A MOTION WAS MADE by Cotton and seconded by Burket to authorize the Department to enter into a 6 month lease of the 2.88 acres of Lot 3 of Lot 1 of the Dakota Rail Park subdivision to Dakota Rail Park LLC. The lease would address an easement or other device as determined appropriate by the Department to allow construction of the siding that would

straddle the property line between the LLC's property and the State's railroad right of way. The Board also directs the Department staff to take the necessary steps to prepare, for Board consideration, a proposal for possible transfer or sale of the leased property to include replatting of the parcel into appropriate parcels for conveyance. The lease would also include the restriction that the leased property must only be served by the State's operator on the Napa-Ravinia line. All present voted aye by roll call vote. The motion carried.

Cope recused himself from the discussion and any potential vote on the consideration of the Dakota Mill & Grain, Inc.'s proposal.

Brian Hammerback, representative of Dakota Mill & Grain, Inc. ("DM&G"), presented the Board with a proposal to expand operations east of Presho, South Dakota. DM&G requested the Board consider DM&G's proposal based on the following items:

1. Approval of 20-feet distance between center of mainline track and center of new siding to be built by DM&G.
2. Approval for purchase of 35-foot-wide strip of State-owned land upon which the new siding will be constructed.
3. Approval for installation of mainline switches to the siding.
4. \$4.3 million loan from the Board.

A MOTION WAS MADE by Burket and seconded by Cotton to authorize the Department to negotiate and enter into an agreement with DM&G as follows: (1) to sell a strip of State-owned railroad right of way, approximately 30 feet in width, to DM&G for the purpose of constructing and maintaining a railroad siding, with the Department retaining a minimum of 20 feet of railroad right of way measured from centerline of the mainline; (2) to sell said strip of property at the appraised value as determined by an appraiser selected by both parties; (3) to transfer a perpetual easement to DM&G to allow construction and maintenance of said siding; (4) to ensure said siding is constructed so that there is a distance of at least twenty feet from the centerline of the mainline to the centerline of the siding; and (5) to allow DM&G to install two switches on the State's mainline to serve the siding. All present voted aye by roll call vote, except Cope who abstained. The motion carried.

Hammerback also requested the Board consider a loan to DM&G in the amount of \$4.3 million to fund this project. DM&G will make other arrangements for the funding needed in the interim, but asked to be included on the list of projects requesting loans for railroad development.

No action was taken.

Cope returned to the meeting.

Jack Dokken, the Department's Air, Rail, and Transit Program Manager, presented the Board with a land purchase request for State-owned property located in Tabor, South Dakota. Mr. Ed Sedlacek is the current leaseholder of Lease 1609 and is requesting to purchase the property.

The property consists of two lots, both 150 feet by 50 feet, which are located adjacent to Mr. Sedlacek's property. If approved, Mr. Sedlacek will use the land for his lumber business operations.

A MOTION WAS MADE by Cotton and seconded by Cope to authorize the Department to enter into an agreement to sell the State-owned property, currently Lease 1609, to Ed Sedlacek at its appraised value. The appraiser must be approved by the Department. All present voted aye by roll call vote. The motion carried.

Dokken presented the Board with a request to retain 48 sticks and other track material of 90 pound GN rail from the Britton line salvage.

A MOTION WAS MADE by Quenzer and seconded by Burket to authorize the Department to retain 48 sticks and other track material of 90 pound GN rail from the Britton line salvage. All present voted aye by roll call vote. The motion carried.

Jack Parliament presented the Board with information regarding the T480 Bridge. Koppers Railroad Structures Inc. has been asked to do an evaluation of the T480 Bridge for possible rehabilitation. This will be an ongoing discussion.

No action was taken.

Dokken presented the Board with information about South Dakota grant opportunities. The US Department of Transportation published the Infrastructure for Rebuilding America ("INFRA") grant. The funding announcement totals \$1.5 billion with 25% reserved for rural projects. The Department is currently reviewing all project loan applications from February 28, 2017, to determine whether or not any of those projects would meet the criteria of the INFRA grant. Applications are due to the FRA November 2, 2017.

No action was taken.

Project updates:

RCP&E TIGER grant project: The Department is waiting for FRA approval of the grant agreement between FRA and the Department.

Sioux Valley Relocation: The Department is waiting for FRA environmental approval.

No action was taken.

Secretary Bergquist requested the Board enter into an executive session pursuant to SDCL 1-25-2(4) to prepare for contract negotiations.

A MOTION WAS MADE by Quenzer and seconded by Cope to enter into executive session at 12:52 p.m. pursuant to SDCL 1-25-2(4) to prepare for contract negotiations. All present voted aye by roll call vote. The motion carried.

The Board came out of executive session at 1:05 p.m.

A MOTION WAS MADE by Cotton and seconded by Burket to adjourn. The motion carried.

With no other business to come before the Board, the meeting was adjourned at 1:20 p.m.