

**SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES  
AUGUST 16, 2017 – 11:00 A.M.  
BECKER-HANSEN BUILDING – 700 EAST BROADWAY  
PIERRE, SOUTH DAKOTA**

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

**MEMBERS PRESENT  
VIA CONFERENCE CALL:** Gary Doering, Member

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

**OTHERS PRESENT,  
VIA CONFERENCE CALL:** Kim Halverson, Erin Heupel, Avery Banks, Drew Fredricks, Kirk Jones

**OTHERS PRESENT:** Alex Huff, Jeff Cooley, Dick Huff, Mark Cutright, Heath Haden, Jack Parliament, Rob Everist, and Bob Mercer

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

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Karla Engle, Office of Legal Counsel, presented the new Conflict of Interest laws and Consideration of Conflicts of Interest through a PowerPoint presentation.

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After Engle’s presentation relating to the updates to the conflict of interest laws, Chairman Yeaton opened the floor to 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.

Jeff Burket submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit A**) concerning a lease between Minerals Technologies, Inc. and the South Dakota Department of Transportation (the “Department”) that allows Mineral Technologies, Inc. to use a railroad yard in Rapid City, South Dakota for rail car storage. Burket is currently employed by Minerals Technologies, Inc.. Burket also provided a verbal

summary of the lease. Burket will abstain from any discussion and voting in regard to the lease of this rail yard to Minerals Technologies, Inc.

A MOTION WAS MADE by Cope and seconded by Quenzer to approve the waiver request submitted by Burket as the Board has determined the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Burket, who abstained from the Board discussion and vote. The motion carried.

Jerry Cope submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit B**) regarding leases between his employer, Dakota Mill & Grain, Inc., ("DM&G") and the Department for state-owned rail property in Murdo, South Dakota, and Presho, South Dakota, as well as proposed and pending purchases of state-owned property by DM&G in Presho, South Dakota. Cope also provided a verbal summary of these transactions. Cope will abstain from any discussion and voting in regard to DM&G's leases in Murdo, South Dakota and Presho, South Dakota. Cope will also abstain from any discussion and voting in regard to the pending and proposed purchases of state-owned property in Presho, South Dakota by DM&G.

A MOTION WAS MADE by Quenzer and seconded by Cotton to approve the waiver request submitted by Cope as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Cope, who abstained from the Board discussion and vote. The motion carried.

Yeaton turned the meeting over to Vice Chair Quenzer.

Todd Yeaton submitted a written disclosure and waiver request (attached to and incorporated into these minutes as **Exhibit C**) requesting a waiver from the Board for a potential conflict of interest. Yeaton explained to the Board plans that he and his business partner have for entering into a lease with the Department for use of railroad rights of way and possibly highway rights of way for haying purposes.

A MOTION WAS MADE by Burket and seconded by Cope to approve the waiver request submitted by Yeaton as the Board has determined that the matter underlying the conflict is fair, reasonable, and not contrary to public interest. All present voted aye by roll call vote, except Yeaton, who abstained from the Board discussion and vote. The motion carried.

Quenzer turned the meeting back over to Chair Yeaton.

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Chair Yeaton asked for a motion to approve the minutes of July 5, 2017.

A MOTION WAS MADE by Burket and seconded by Cotton to approve the July 5, 2017, meeting minutes. All present voted aye by roll call vote. The motion carried.

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Joel Jundt, Deputy Secretary of the Department, presented the Board with an update of the Railroad trust fund condition statement (3044-681).

Darin Bergquist, Secretary of the Department, informed the Board that he was requested to appear at the Government Operations and Audit Committee ("GOAC") meeting of July 24, 2017. He provided GOAC with general information on how DOT monitors and manages state-owned railroad property. The Committee requested Bergquist return to provided more information regarding car storage in regard to hazardous materials.

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Secretary Bergquist then presented the Board with Dakota Southern Railway Company (DSRC) car storage lease payment information for the state-owned Napa to Ravinia line. Bergquist explained there is an issue regarding how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. The Board discussed authorizing the Department to enter into negotiations with DSRC on a proposed amendment to the current lease agreement.

A MOTION WAS MADE by Cotton and seconded by Burket to authorize the Department to negotiate with Dakota Southern Railway Company on a proposed amendment to the current Napa to Ravinia lease agreement concerning how gross revenue should be calculated for purposes of determining the 50% car storage lease payment. Any agreement negotiated between the Department and DSRC will be presented to the Board at a later date for final approval. All present voted aye by roll call vote. The motion carried.

The Board requested the Department inquire into why the Napa to Ravinia line has not been servicing rail cars to potential shippers.

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Deputy Secretary Jundt presented the Board with an informational item. The Department will be requesting the following information from Regional Rail Authorities and operators:

- Federal Rail Authority (FRA) inspections;
- Weekly track inspection reports;
- Monthly maintenance plan progress reports;
- Quarterly bridge inspections reports;
- Annual new construction reports; and
- Rehabilitation reports.

The Department, operators, and Regional Railroad Authorities will work together to find an acceptable format to allow for the information to be shared with or accessed by the Department.

No action was taken.

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Deputy Secretary Jundt updated the Board on the Richland-Sargent drainage project. The Board had previously approved obligating funds in an amount up to \$250,000.00 to replace a drainage structure located at the Richland-Sargent drainage crossing with the Britton line near Cayuga, North Dakota. The remaining decision to be finalized is the amount of funding the Board is agreeable to actually expend for the project. The Department is requesting the Board approve funding for this project up to \$250,000.00.

A MOTION WAS MADE by Quenzer and seconded by Doering to authorize the Department to enter into a loan agreement with Marshall County Regional Railroad Authority for an amount up to \$250,000.00 for replacement of the Richland-Sargent drainage project. Loan repayment would commence after Marshall County Regional Railroad Authority's satisfaction of prior loan payments based on current surcharge rates. All present voted aye by roll call vote. The motion carried.

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Deputy Secretary Jundt presented the Board with a bid for an underwater bridge inspection of the Missouri River Bridge in Chamberlain, SD. The bridge is part of the state-owned Mitchell to Rapid City ("MRC") rail line and has not had an underwater bridge inspection since the 1980's. The Department is recommending the underwater bridge inspection be completed and raised the issue of who should be responsible for paying the cost of the underwater bridge inspection estimated at \$17,500.

A MOTION WAS MADE by Cope and seconded by Cotton to approve the State expending up to \$17,500.00 on a one-time basis to cover the cost of performing an underwater bridge inspection on the MRC bridge structure located over the Missouri River in Chamberlain, SD. All present voted by roll call vote, with 5 aye votes [Yeaton, Doering, Cope, Burket and Cotton], and 1 nay vote [Quenzer]. The motion carried.

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Jack Parliament, President of D&I Railroad Co., presented the Board with the estimated project costs for rehabilitation of the T480 bridge provided by Koppers Railroad Structures Inc. Parliament suggested the Board apply for a federal grant to help fund rehabilitation of the T480 bridge.

A MOTION WAS MADE by Quenzer and seconded by Cope to authorize the Department to prepare and submit a federal grant application in cooperation with D&I Railroad Co. ("D&I") for the replacement of facilities on the state owned rail line subleased by D&I, with preference placed on bridge work. The Department is further authorized to commit the previously approved state funding share of \$1,950,888.50 as match for the grant. All present voted aye by roll call vote. The motion carried.

The Board requested D&I to obtain a third opinion for the cost to rehabilitate the T480 bridge.

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Jack Dokken, Office of Air, Rail, and Transit Program Manager, introduced Board packet attachment 3, containing an observation report of the MRC line submitted by Quenzer.

No action was taken.

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Dokken provided updates to the Board on the following projects:

- On August 14, 2017, a project kick off meeting was held between the Department and Federal Railroad Association (“FRA”) regarding the RCP&E TIGER project.
- Sioux Valley relocation: 4 tribal entities have raised interest in this project as a cultural site. FRA will be scheduling future meetings with the interested tribes to better understand any concerns the tribes may have.

A MOTION WAS MADE by Burket and seconded by Cope to adjourn.

With no other business to come before the Board, the meeting was adjourned at 2:05 p.m.