

RESOLUTION NO. _____

BE IT RESOLVED BY THE
SOUTH DAKOTA STATE RAILROAD BOARD

WHEREAS, SDCL 1-44-20 states: "The Department of Transportation, with the approval of the South Dakota State Railroad Board and the written consent of the Governor, may enter into agreements, contracts, leases (as lessor or lessee), or other arrangements with any corporation, partnership, individual, agency, or authority, on such terms and conditions as the department shall determine, including providing for the acquisition, operation, maintenance, and improvement of public rail lines, and the acquisition and disposition of any and all rights-of-way, land, facilities, fixtures and appurtenant structures, services and equipment, determined by the department to be necessary or appropriate."

WHEREAS, SDCL 1-44-27 states: "The Department of Transportation shall obtain the approval of the Railroad Board in matters of operation, management, finance, marketing and development of rail service over all properties and facilities acquired, leased, or controlled by the State."

WHEREAS, the South Dakota State Railroad Board adopted Resolution No. 2017-B12, and said resolution was approved by Governor Dennis Daugaard;

WHEREAS, said resolution authorized the Department of Transportation to transfer a perpetual easement to Dakota Mill & Grain, Inc., to allow construction and maintenance of a siding on the south side of the state-owned main line east of Presho, South Dakota; and

WHEREAS, a perpetual siding agreement between the rail operator and Dakota Mill & Grain, Inc., rather than an easement, has been proposed as a more appropriate means of addressing the construction and maintenance of the siding on the state-owned line; and

WHEREAS, the department recommends amending Resolution No. 2017-B12 to reflect this change;

NOW, THEREFORE, the South Dakota State Railroad Board, subject to the approval of the Governor, amends the last paragraph of Resolution No. 2017-B12 to read as follows:

NOW, THEREFORE, the South Dakota State Railroad Board, subject to the approval of the Governor, declares the sale of real property to be in the best interest of the State of South Dakota and authorizes the Department of Transportation to negotiate and enter into an agreement with DM&G and execute all documents necessary to accomplish the following: (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 authorize a perpetual industry track agreement to be entered into between the rail operator and 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.

SOUTH DAKOTA STATE RAILROAD BOARD

BY _____
Harlan Quenzer, Chair

Approved this _____ day of _____, 2018.

BY _____
Dennis Daugaard, Governor