

SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES

August 19, 2020 at 11:00 a.m. CDT

BECKER-HANSEN BUILDING / DOT COMMISSION ROOM
700 EAST BROADWAY AVENUE, PIERRE, SOUTH DAKOTA

MEMBERS PRESENT: Jerry Cope, Chairman
Jeff Burket, Vice-chairman
Steve Scharnweber, Secretary
Greg Carmon, Member
Jack Nelson, Member
Gary Doering, Member

MEMBER PRESENT

VIA CONFERENCE CALL: Jon Kirby, Member

DOT STAFF PRESENT: Darin Bergquist, Joel Jundt, Karla Engle, Jack Dokken, Misty Siedschlaw, Perry Griffith, and Kari Kroll

DOT STAFF PRESENT

VIA CONFERENCE CALL: Bonnie Olson

OTHERS PRESENT: Gary Feltman; Greg Powell – City of Chamberlain; Terence Hickey; Toby Morris; Mike Traxinger – Agtegra; Dustin Buntrock – Agtegra; Dick Huff; Alex Huff; Scott Van Den Top – D & I Railroad Co. (D&I); Rob Everist – L.G. Everist; Heath Haden – Dakota Southern Railway Company (DSRC); Dan Kippley – Ellis & Eastern Company; Rick Webb – WATCO Companies (WATCO); Steve Coomes – WATCO; Jimmy Patterson – WATCO; Mike Kellar – Rapid City, Pierre & Eastern Railroad, Inc. (RCP&E); and Rick Vallery – Governor’s Office of Economic Development

OTHERS PRESENT

VIA CONFERENCE CALL: John Rogers; Katie Nix; Charles Baker – Baker Trucking; Perry Guptil; Dan Rolfes – City of Akron; Shane Pederson – Chamberlain Redimix; Bob Burke – Burke Oil; Todd Orth; Pete Christensen; Mark Klein; Val Moore – City of Oacoma; Gerald Wickstrom – Chamberlain/ Oacoma Gun Club; Barton Banks – Dakota Mill and Grain; Bob Patrick – Patrick Oil; Sam Fosness- Daily Republic; Russ Hazel – Sioux Valley Regional Railroad Authority (SVRRA); Dean Krogman – RCP&E; Bruce Steckelberg; Richard Nelson; Cody McKenzie; and Chuck Miller – CHS Inc.

Chairman Jerry Cope called the meeting of the South Dakota State Railroad Board (the “Board”) to order at 11:00 a.m. CDT. A roll call was taken, and a quorum was determined.

Cope opened the floor to the Board members to disclose potential conflicts of interest and to present requests for waivers pursuant to the South Dakota Codified Law (SDCL) chapters 3 – 23.

Cope presented the annual conflict of interest disclosure received from Board Member Doering, which was previously submitted to the Board. Doering's prior disclosure was dated September 12, 2019. The Board acknowledged receipt of Doering's annual disclosure of potential conflict of interest, which will be filed with the required state agencies. A copy of the written annual disclosure is attached to and incorporated in these minutes as **Attachment A**.

Cope presented the annual conflict of interest disclosure received from Vice-chairman Burket, which was previously submitted to the Board. Burket's prior disclosure was dated August 1, 2018. The Board acknowledged receipt of Burket's annual disclosure of potential conflict of interest, which will be filed with the required state agencies. A copy of the written annual disclosure is attached to and incorporated in these minutes as **Attachment B**.

Cope noted he will be recusing himself during the discussion and any potential vote of the purchase of the Dakota Mill & Grain lease property.

Doering noted he will be recusing himself during a purchase of excess property involving East Central Regional Railroad Authority.

Cope asked for a motion to approve the Board meeting minutes for July 23, 2020, as corrected.

A MOTION WAS MADE by Nelson and seconded by Doering to approve the July 23, 2020 Board meeting minutes as corrected. All present voted aye by roll call vote. The motion carried.

Cope opened the floor to public input.

Alex Huff addressed the Board to ask if the Board has a written agreement from BNSF that multiple carrier access is still in effect on the MRC line. Mr. Huff indicated it is important to let any future owners of the Mitchell-Rapid City (MRC) rail line know of the required multi-carrier access.

Cope acknowledged receipt of a letter from Dick Huff sent to the Board dated August 15, 2020.

Cope reminded the public of the Board's request that if there are any accusations or allegations made via letter or in person during public input, documentation should also be provided at that time to support the accusations or allegations.

Deputy Secretary Joel Jundt presented the Secretary's Report. Jundt shared the current balance in the State Railroad Trust fund is about \$5.5 million.

Jundt indicated that D & I Railroad Co., and not L.G. Everist, Inc., is proposing to be the purchaser of the Sioux Valley rail line. Jundt provided an update on the negotiations for the sale of the Sioux Valley rail line.

Cope opened the floor to public comment in regard to the sale of the Sioux Valley rail line. No public comment was given.

Scott Van Den Top, General Manager of D & I Railroad Co., and Rob Everist from L.G. Everist were available to answer questions on the proposal to purchase the Sioux Valley rail line.

Jundt summarized the terms of the purchase proposal previously made by L.G. Everist, Inc. and D & I Railroad Co. Jundt reminded the Board the purchase price would be \$10 million, with installment payments made over 20-years with an interest rate of 2%. Under the proposal, D & I Railroad Co. and the Department of Transportation (the "Department") would equally share the required 25% match on the anticipated FEMA grant for repair work as a result of the 2019 flooding including Canton railroad bridge reconstruction. The proposal also requires the Department and Board to support submission of a Special Transportation Circumstances (STC) grant application for bridge structure replacement on the Sioux Valley Line. The grant application would mirror the application previously submitted during the last round of grant submissions.

With no further public comments or Board questions, Cope asked for a motion on the proposal.

A MOTION WAS MADE by Kirby and seconded by Burket to authorize the Department to negotiate the final terms and conditions of the agreement and supporting documents necessary to sell the state-owned Sioux Valley rail line as proposed by L.G. Everist Inc./ D & I Railroad Co. All present voted aye by roll call vote. The motion carried.

Secretary Darin Bergquist informed the Board of a new proposal received from WATCO for potential purchase of the MRC rail line. Bergquist introduced Rick Webb, a representative of WATCO.

Webb presented an updated proposal to purchase the MRC rail line for \$13,000,000 to be paid as follows; \$5,000,000 in cash at closing, with the balance, after subtracting any monies owed to the state of South Dakota (the "State"), to be paid in five (5) equal installments on the anniversary date of closing the transaction. The MRC rail line purchase will include mainline tracks, siding, extra width property facilities and any property which is currently subject to a lease by the State to a third party. In addition, the purchase of the MRC rail line will include all contracts, improvements and other assets associated with the State's ownership of the MRC rail line. The purchase price includes the unpaid balance of \$4,348,000 that is owed to the State. If the Special Transportation Circumstance grant is approved by FRA, WATCO would also agree to pay the State \$500,000.00 per year for the first three years after closing to help reimburse the State for the passing track project being proposed.

At the September meeting, the Board will be asked to discuss and take potential action on the updated proposal after hearing public comment.

The Board took a brief break from 12:28 p.m. – 12:35 p.m.

Jack Dokken, Program Manager of Office of Air, Rail, and Transit explained to the Board that the attachments for the next four agenda items all regard excess property sales. He explained that if sales are approved, the Department's procedure would be to require each purchaser to obtain an appraisal report and plat for the property and provide that information to the Department by the following deadlines – certified plats and surveys must be provided by January 15, 2021, and the appraisal report must be provided by March 1, 2021. He also reminded the Board and members of the audience that for safety reasons, the Department recommends minimum setback standards from the center of the main line track to the property line as follows: 50 feet in rural settings, 25 feet in non-rural or urban settings, and 8.5 feet from a siding.

Dokken presented for Board consideration the sale of additional property on the Sioux Valley rail line to The Station and Kenneth Less dba Less Farms. On May 20, 2020, the Board approved the sale of leased property #1373 to the Lessee, Terry Moore of The Station, and lease property #1520 to the Lessee, Kenneth Less. Terry Moore wishes to purchase additional property that is currently being leased by Marlene Schiefen, identified as lease #1521. Kenneth Less is requesting approval to purchase additional non-leased property abutting his leased area.

A MOTION WAS MADE by Burket and seconded by Carmon to authorize the Secretary or his designee to execute all the documents necessary to sell the state-owned railroad property identified as lease #1521 to Terry Moore of The Station and sell the additional parcel of non-leased property identified by Kenneth Less to him, subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present vote aye by roll call vote. The motion carried.

Dokken presented to the Board consideration of sale of additional property on the Sioux Valley rail line to the City of Akron, Central Valley Ag, Mike Caskey, and Akron Lumber Co. On May 20, 2020, the Board approved the sale of leased property #1518 to the Lessee, City of Akron, leased property #992 to the Lessee, Central Valley Ag, leased property #1260 to the Lessee, Mike Caskey, and leased property #1288 to the Lessee, Akron Lumber Co. City of Akron, Central Valley Ag, Mike Caskey, and Akron Lumber Co. are requesting approval to purchase additional non-leased property abutting their leased areas.

It was determined that the maps and locations for the extra property requested by the City of Akron were incorrect and would be considered at a future meeting.

A MOTION WAS MADE by Carmon and seconded by Nelson to authorize the Secretary or his designee to execute all the documents necessary to sell the additional state-owned railroad property identified by Central Valley Ag, Mike Caskey, and Akron Lumber Co., subject to conditions and limitations deemed

appropriate by the Department based on its due diligence. All present vote aye by roll call vote. The motion carried.

Dokken presented to the Board consideration of sales of excess property on the East Central rail line in Yale to Agtegra. On June 17, 2020, the Board approved Agtegra to purchase leased property #1611. Agtegra is requesting approval to purchase additional property adjacent to the leased area. Mike Traxinger from Agtegra appeared before the Board and was available to answer questions.

Member Doering recused himself from the discussion and vote of the Agtegra request.

A MOTION WAS MADE by Nelson and seconded by Scharnweber to authorize the Secretary or his designee to execute all the documents necessary to sell the additional non-leased state-owned railroad property to Agtegra subject to conditions and limitations deemed appropriate by the Department based on its due diligence, and provided the use of the property does not interfere with rail operations. All present voted aye by roll call vote except Doering who abstained. The motion carried.

Dokken presented to the Board consideration of sales of excess property to interested existing lease holders on the MRC rail line from Chamberlain to Rapid City.

The Board reviewed purchase requests contained in the list on *Attachment #6* of the agenda packet.

A MOTION WAS MADE by Carmon and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1303 and #1321 to the City of Chamberlain, lease #1302 to Gary Feltman, and lease #1470 to Terence Hickey and sell additional parcels of non-leased property to the same parties subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Doering and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1088 to Chamberlain Auction and lease #1278 to Chamberlain Redmix LLC and sell additional parcels of abutting non-leased property to the same parties, excluding certain the extra property requested by Chamberlain Livestock Auction, subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Nelson and seconded by Carmon to authorize the Department to convey an ownership interest in the city streets located on state-owned railroad property, as identified in blue on the maps on pages 5 -7 of the agenda packet, to the City of Chamberlain. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Burket and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #921 and 1607 to CHS Inc. and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1308 to CHS Inc. No action was taken.

A MOTION WAS MADE by Burket and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #788 to Burke Oil and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Burket and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1298 to Terence Hickey subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1649 to Don Steckelberg and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1656 to Terence Hickey and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1188 to Todd Orth and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1536 to Bruce Steckelberg and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease

#1385 to Chamberlain Wholesale Grocery subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #681 to Mark Klein and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Burket and seconded by Scharnweber to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #680 to Pete Christensen and sell additional parcels of non-leased property, as identified by the department in the agenda packet, to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

The Department recommended against selling non-leased property that was separately requested for purchase by Terence Hickey, Todd Orth, and Bob Burke. No action was taken.

The Department acknowledged the City of Chamberlain has requested purchase of additional excess property. The Department recommended deferring consideration of the balance of the City of Chamberlain's purchase request. No action was taken.

A MOTION WAS MADE by Nelson and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1651 to Mark Saxton subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Doering and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1400 to Chamberlain/Oacoma Gun Club subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Nelson and seconded by Scharnweber to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1559 to Terry Chmela subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Scharnweber to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #s 1111, 1615, 1614, 1228 and 1071 to the City of Oacoma and sell additional parcels of abutting non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified

as lease #1556 to Alan Suhl and Karleen Hanig subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1585 to Leonard Springer subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Doering and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1591 to Terry Kenobbie subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Burket and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #s 1242 and 1215 to Agtegra and sell additional parcels of abutting non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1185 to David Hieb and sell additional parcels of abutting non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1601 to Eugene Martin subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Burket and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #s 1116 and 1590 to Agtegra and sell additional parcels of abutting non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Doering and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #s 939, 940, and 1648 to the Town of Kennebec and sell additional parcels of abutting non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

Martin and Lance Mortenson, lease #1158, request to continue to lease and not purchase the land. No action was taken.

Chairman Cope recused himself from discussion of the proposed property sale to Dakota Mill & Grain due to a previously disclosed conflict of interest and turned the meeting over to Vice-chairman Burket.

A MOTION WAS MADE by Nelson and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1605 to Dakota Mill & Grain and lease #1234 to Agtegra and sell additional parcels of abutting non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. The additional parcels do not include two long segments located directly to the north and south of the main line track. All present voted aye by roll call vote, except Cope who recused himself. The motion carried.

Cope resumed as chair of the meeting.

A MOTION WAS MADE by Carmon and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #910 to Patrick Oil and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Burket and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1170 to CHS and #1247 to Agtegra and sell additional parcels of abutting non-leased property to the same parties subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Nelson and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1045 to Wayne Hunt and #1243 to Baker Trucking and sell additional parcels of abutting non-leased property to the same parties subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1613 to Christopher Nix and Katie Nix, subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1332 to Richard Hullinger. No action was taken.

A MOTION WAS MADE by Scharnweber and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1240 to Cody McKenzie and #973 to James Hockenbary and sell additional parcels of non-leased property to the same parties subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1374 to Richard Groven and lease #s 1263, 1142, and 1328 to Mike Carlson, Mark Carlson and Discount Fuel Inc. and sell additional parcels of non-leased property to the same parties subject to

conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Doering and seconded by Scharnweber to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #s 1073, 1177, 1068, 1187, 1435, and 851 to CHS Inc. and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

The Department recommended continuing to lease the state-owned railroad property identified as lease # 1435 to CHS Inc. No action was taken.

A MOTION WAS MADE by Scharnweber and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1349 to Grant Patterson and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1146 to John Rodgers subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1096 to Steve Riggins and sell additional parcels of non-leased property to the same party subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1541 to Jennifer Reisser and lease #s 1664, 1632, 1633, and 1108 to Perry Guptill, subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1311 to Nelson Oil & Gas and lease #1221 to Farmers Union Oil Company, subject to conditions and limitations deemed appropriate by the Department based on its due diligence. All present voted aye by roll call vote. The motion carried.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1490 to Crescent Electric Supply. No action was taken.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1331 to McKie. No action was taken.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1421 to Discount Lumber. No action was taken.

Cope asked for a motion for the Board to enter into Executive Session.

A MOTION WAS MADE by Burket and seconded by Carmon to enter into executive session pursuant to SDCL 1-25-2(3) for the purpose of consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters. All present voted aye by roll call vote. The motion carried.

Executive session began at 3:06 p.m. CDT.

Cope called the meeting back into session at 3:34 p.m. CDT.

With no other business to come before the Board, Cope adjourned the meeting at 3:35 p.m.