

SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES

Wednesday, May 15, 2024 at 11:11 a.m. CDT

Becker-Hansen Building/Commission Room – 700 East Broadway Avenue, Pierre, SD

MEMBERS PRESENT: Jeff Burket, Chairman
Steve Scharnweber
Scott Lockwood
Jack Nelson
Greg Carmon

MEMBERS PRESENT

VIA CONFERENCE CALL: Ralph Schmidt

DOT STAFF PRESENT: Karla Engle, Kellie Beck, Jack Dokken, Perry Griffith, Misty Siedschlaw, Katlyn Wieme, Jacob Howard, and Kari Kroll

DOT STAFF PRESENT

VIA CONFERENCE CALL: Joel Jundt

OTHERS PRESENT: Chadd Thimesch – Ringneck & Western Railroad, LLC (RWRR); PJ Forbes – WATCO; Randy Burington – WATCO; and Mike Kellar – Rapid City, Pierre & Eastern Railroad, Inc. (RCPE)

OTHER PRESENT

VIA CONFERENCE CALL: Sally Currier – RWRR; Mark Trottier – Dakota, Missouri Valley & Western Railroad Inc. (DMVW); Clint Sayler – DMVW; Ross Lane – Genesee & Wyoming Inc; Dan Bilka – All Aboard; and Alex Huff

Chairman Jeff Burket 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.

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

Board member Ralph Schmidt declared his conflict of interest with the agenda item regarding Millbank to Sisseton rail line. Karla Engle, Chief Legal Counsel, shared with the Board that Schmidt has already presented to the Board his waiver regarding this conflict and that the Board found it to be fair, reasonable, and not contrary to public interest. Schmidt will recuse himself from discussion and vote on this item.

No other conflicts of interest were disclosed, and no waivers were requested.

Burket asked for a motion to approve the special Board meeting minutes from April 17, 2024.

A MOTION WAS MADE by Nelson and seconded by Lockwood to approve the special Board meeting minutes from April 17, 2024. All present voted aye by roll call vote. The motion carried.

Burket opened the floor to public input.

No members of the public addressed the Board nor offered input.

Secretary Joel Jundt presented to the Board his Secretary's Report. He shared the following items:

- Reminded the Board that the Consolidated Rail Infrastructure and Safety Improvement (CRISI) Notice of Funding Opportunity (NOFO) was announced earlier this spring. At this time, no entities have requested the Department of Transportation (the "Department") to submit a CRISI grant application on their behalf.
- Special Transportation Circumstance (STC) grant NOFO has not been announced but the Department has reached out to the Federal Railroad Administration (FRA) asking for a time frame for this NOFO. FRA indicated the NOFO may be issued late summer or early fall.
- Jundt asked the Board to take a moment of silence to acknowledge the passing of Jerry Cope and all he did for the Railroad Board & Authority as well as the people of South Dakota.
- With Cope's passing an election of a new Vice-Chairman was needed. Chairman Burket called for nominations.

A MOTION WAS MADE by Carmon and seconded by Scharnweber to nominate Jack Nelson as Vice-Chairman. All present voted aye by roll call vote, except Nelson who abstained. The motion carried.

- Jundt noted there is now a vacancy on the Board and the Department will work with the Governor's office to fill the vacancy.

Karla Engle, Chief Legal Counsel, presented for Board consideration approval of expenditures proposed by the South Dakota Railroad Authority for rehabilitation of the Rapid City Pierre and Eastern ("RCP&E") rail line from west of Fort Pierre to Rapid City as well as the Milbank to Sisseton rail line. She shared the financial details of each project.

A MOTION WAS MADE by Scharnweber and seconded Lockwood to approve the proposed expenditure by the South Dakota Railroad Authority of \$20,000,000 in State general funds and \$22,000,000 in federal grant funds for the rehabilitation of RCP&E railroad line from west of Fort Pierre to Rapid City. All present voted aye by roll call vote. The motion carried.

Board member Schmidt recused himself from the discussion and vote of the Milbank to Sisseton rail line rehabilitation project

A MOTION WAS MADE by Carmon and seconded by Nelson to approve the proposed expenditure by the South Dakota Railroad Authority \$6,250,000 in State general funds and \$24,712,204 in Federal grant funds for the rehabilitation of the Milbank to Sisseton rail line. All present voted aye by roll call vote, except Schmidt who was recused. The motion carried.

Schmidt rejoined the meeting.

Engle presented for Board consideration a disclaimer of interest for property west of Renner. In the 1980s, the Department owned a segment of line called the Dell Rapids line that the Department deeded to LG Everist. Prior to deeding the property, the Department agreed to sell some property west of Renner where a grain facility was located. Michael Williams and Gene Williams approached the Department to sell the property and asked that the Department authorize the sale to a corporate entity, Renner Grain, Inc., that the William's were forming. The Department did as requested and executed a deed conveying the property to Renner Grain, Inc. Michael Williams later discovered that the corporate documents to form Renner Grain, Inc. were never filed. The Department has not occupied or maintained the property, does not need the property for any transportation-related reason, and the documents available to the Department indicate the intention was to dispose of the property, subject to the statutory requirement to retain mining rights. The Department requests the Board to authorize the Secretary, or his designee, to execute all documents necessary to disclaim any interest in the property described below, subject to the reservation of mining rights also set out below:

William's Tract 1 in the SW1/4 of the SW ¼ of Section 9 – T102N – R49W, Minnehaha County, South Dakota.

It is expressly understood that the State of South Dakota, acting by and through its Department of Transportation, reserves all rights to the deposits of coal, ores, metals, and other materials, asphaltum, oil, gas, and other like substance, together with the right to prospect for, mine and remove the same upon rendering compensation to the owner or lessee for all damages that may be caused by such prospecting or removal.

A MOTION WAS MADE by Lockwood and seconded by Nelson to authorize the Secretary, or his designee, to execute all documents to disclaim any interest in the subject property, subject to the reservation of mining rights required by state law. All present voted aye by roll call vote. The motion carried.

Jack Dokken, Program Manager for the Office of Air, Rail, and Transit presented for Board consideration a request to authorize a contract with Pennington County for weed spraying on the

Mitchell-Rapid City (MRC) rail line that is railbanked and sponsored by the Department. The payment for these services would be \$7,100.

A MOTION WAS MADE by Carmon and seconded by Scharnweber to authorize the Secretary, or his designee, to prepare and execute an agreement with the Pennington County Weed and Pest Board, in the amount of \$7,100.00 for noxious weed control services on the portion of the MRC rail line extending from Rapid City, South Dakota east to the Pennington County line near Interior, South Dakota. All present voted aye by roll call vote. The motion carried.

Jack Dokken shared with the Board the findings from the 2024 rail line observation tours that took place May 7 – 9.

Jack Dokken gave a PowerPoint presentation updating the Board on current railroad projects.

Kari Kroll, Office of the Secretary, shared with the Board that the Hall of Honor Committee is currently accepting nominations for induction in 2024. She also reminded the Board that the June meeting will be on June 12, 2024 due to June 19, 2024 being a federal holiday and State offices will be closed.

With no further business to come before the Board, Burket declared the meeting adjourned at 12:09 p.m. CT.