

**SOUTH DAKOTA STATE RAILROAD BOARD
CONFERENCE CALL MEETING MINUTES
June 17, 2020 at 11:00 a.m. CDT**

MEMBERS PRESENT

VIA CONFERENCE CALL: Jerry Cope, Chairman
Jeff Burket, Vice-chairman
Greg Carmon, Member
Steve Scharnweber, Secretary
Jon Kirby, Member
Gary Doering, Member

DOT STAFF PRESENT: Jack Dokken, Misty Siedschlaw, Perry Griffith, and Kari Kroll

DOT STAFF PRESENT

VIA CONFERENCE CALL: Joel Jundt, Karla Engle, and Bonnie Olson

OTHERS PRESENT

VIA CONFERENCE CALL: Dick Huff; Scott Van Den Top – D & I Railroad Co. (D&I); Heath Haden – Dakota Southern Railway Company (DSRC); Dan Kippley – Ellis & Eastern Company; Mark Wismer; Josh Kraft – K Properties; Dean Maas; Bruce Lindholm; Dustin Buntrock – Agtegra; Eric Paulson – Full Circle Ag; and Jeff Thaler – Full Circle Ag

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 to verify a quorum.

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

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

Cope asked for a motion to approve the May 13, 2020, Board meeting minutes.

A MOTION WAS MADE by Carmon and seconded by Kirby to approve the May 13, 2020, Board meeting minutes. All present voted aye by roll call vote. The motion carried.

Cope asked for a motion to approve the May 20, 2020, Board meeting minutes.

A MOTION WAS MADE by Burket and seconded by Kirby to approve the May 20, 2020, Board meeting minutes. All present voted aye by roll call vote. The motion carried.

Deputy Secretary Joel Jundt presented the Secretary's Report. Jundt made note of a letter he had provided to the Board that he received from Alex Huff.

A MOTION WAS MADE by Scharnweber and seconded by Doering to acknowledge receipt of the letter from Alex Huff dated June 8, 2020. All present voted aye by roll call vote. The motion carried.

Jundt provided handouts to the Board depicting the current Railroad Trust Fund loan balances and the overall State Railroad Trust Fund balance. The Board requested the Department of Transportation (the "Department") provide a quarterly report of the Railroad Trust Fund balance.

Jundt asked the Board to consider railbanking and salvaging the rail and other track materials on the Napa-Platte rail line from Tyndall to Platte. Heath Haden of Dakota Southern Railway Company, the current lease holder of that portion of the line, agreed with this plan but asked the Board to reinvest the money from salvaging the rail into the Napa-Platte rail line that is not railbanked.

A MOTION WAS MADE by Carmon and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to designate the segment of state-owned rail line stretching from Tyndall to Ravinia for interim trail use, including amending the lease of the line with Dakota Southern Railway Company and submitting the necessary documents to the Surface Transportation Board (STB) for such interim trail use. All present voted aye by roll call vote. The motion carried.

Jundt provided an update to the Board on the Department's "back to normal plan" as all Department staff was back in the office by June 15, 2020. The Department hopes to have an in-person meeting for the July Board meeting. The Department is currently working on the details to allow in-person public access for the Board meetings in the Commission Room at the Becker-Hansen Building to ensure safety precautions are followed related to COVID-19.

Jack Dokken, Program Manager of the Office of Air, Rail, and Transit, presented for Board consideration a request to amend the Mitchell-Rapid City (MRC) Regional Rail Authority loan agreement with the Department for the Federal Emergency Management Agency (FEMA) repairs caused by high accumulation of snow and heavy rains causing flooding and structure damage in 2019.

A MOTION WAS MADE by Scharnweber and seconded by Kirby to authorize the Secretary or his designee to execute all documents necessary to amend the loan agreement between the MRC Regional Railroad Authority and the Department to change the payment amount due under the loan agreement as recommended by the Department. All present voted aye by roll call vote. The motion carried.

Dokken introduced the consideration of excess property sales to interested existing lease holders on the Britton and Yale rail lines. 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. 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.

The Board reviewed purchase requests contained in the list on *Attachment #4* of the agenda packet.

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 leases #779, #1017, #1132, #1546, and #1547 to Full Circle Ag 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 Scharnweber to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #861 to the North Star Energy/Jerry Brick 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 Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as leases #942 and #943 to Britton Grain Terminal, LLC 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 Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as leases #933 and #1126 to Richard Wismer 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 Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as leases #1592 and #1593 to K Properties, LLC 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.

The Department recommended continuing to lease the state-owned railroad property currently identified as lease #1658 to Doug Henley. No action was taken.

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 leases #1617 and #1657 to Tigh Flihs 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 Kirby to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1548 to Kidder Grain Co., Inc. 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.

The Department recommended continuing to lease the state-owned railroad property currently identified as lease #1022 to Glenn Lehr. No action was taken.

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 #1667 to the City of Britton 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 Kirby to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1659 to the City of Claremont 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 Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1611 to Agtegra Cooperative 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 #1647 to Dean Maas. No action was taken.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1638 to Jeff Tschetter. No action was taken.

Jundt shared that at the July Board meeting, the Board will take action on the leased excess property on the MRC rail line.

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

A MOTION WAS MADE by Carmon and seconded by Doering 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 12:53 p.m. CDT.

Greg Carmon and Gary Doering left the meeting at 2:10 p.m. CDT.

Cope called the meeting back into session at 2:19 p.m. CDT. Roll call was taken, and a quorum was determined.

Cope stated that due to conflicts, the July Board meeting will be moved from July 15 to July 22 at 11:00 a.m. CDT. The meeting is planned for an in-person meeting with the opportunity to call in if needed.

With no other business to come before the Board, Cope adjourned the meeting at 2:20 p.m.