

**SOUTH DAKOTA STATE RAILROAD BOARD
CONFERENCE CALL MEETING MINUTES
May 20, 2020**

MEMBERS PRESENT

VIA CONFERENCE CALL: Jerry Cope, Chairman
Jeff Burket, Vice-chairman
Greg Carmon, Member
Steve Scharnweber, Secretary
Jon Kirby, 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); Jerry Vest – Genesee & Wyoming, Inc. (G&W); Dan Kippley – Ellis & Eastern Company; Mark Trottier – Dakota, Missouri Valley & Western Railroad, Inc. (DMVW); Troy Fast – DMVW; Sharon Van De Stroet; Kevin DeRocher; Bruce Lindholm; Russ Hazel – Sioux Valley Regional Railroad Authority; Rob Jacobs – Cooperative Farmers Elevator (CFE); Todd Netten – CFE; Nick Feira – United Development; and Janet Lingle – Union County Fairboard

Chairman Jerry Cope called the meeting of the South Dakota State Railroad Board (the “Board”) to order at 9:00 a.m. 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 April 15, 2020, Board meeting minutes.

A MOTION WAS MADE by Burket and seconded by Kirby to approve the April 15, 2020, Board meeting minutes. All present voted aye by roll call vote. The motion carried.

Cope opened the floor for public input. No members of the public addressed the Board or offered input.

Cope acknowledged receipt of a letter from Dick Huff to the Board addressing Mr. Huff's concerns with the Mitchell-Rapid City (MRC) rail line. Cope reminded Mr. Huff that with any accusations or allegations that are made, the Board requests documentation be provided to support those accusations or allegations .

Deputy Secretary Joel Jundt presented the Secretary's Report. Jundt provided an update to the Commission on the back to normal plan for the Department of Transportation (the "Department"). The Department is in the process of transitioning back into the office from working remotely. The goal is to have all staff back in the office by June 15, 2020. He also shared that the June 17th Railroad Board meeting will most likely be conducted via teleconference. The Department will provide more information as the meeting date gets closer.

Jundt shared that the State Railroad Trust Fund's balance is approximately \$4.7 million. Vice-chairman Jeff Burket had requested this information at the May 13, 2020, Board meeting.

Jundt informed the Board that the current available Special Transportation Circumstances (STC) federal grants funds total \$5.67 million. STC grants are paid at 80% federal funds with a 20% match. The deadline for the Department to submit STC grant project applications is July 7, 2020.

Jack Dokken, Program Manager of the Office of Air, Rail, and Transit, presented for Board consideration the Consolidated Rail Infrastructure & Safety Improvements (CRISI) and STC grant applications.

Jerry Vest of G&W provided a brief summary of the CRISI grant application submitted by Rapid City Pierre & Eastern (RCP&E). The project consists of replacing slightly more than 17 miles of main line rail west of Fort Pierre, improving both the carrying capacity of the line and its functionality over Pierre Shale geological formations in the West River region. The proposed application is a \$12 million CRISI grant request with 50% match paid by RCP&E.

A MOTION WAS MADE by Scharnweber and seconded by Kirby to authorize the Secretary or his designee to submit a CRISI grant application to the Federal Railroad Administration (FRA) on behalf of RCP&E for the project proposed by RCP&E. All present voted aye by roll call vote. The motion carried.

Dokken shared there were two modifications to the STC grant application proposals that were previously presented to the Board.

1. DMVW modified the construction time to one construction season instead of over the span of three years as stated in the original proposal. DMVW also provided a new project estimate of \$3,000,000 (\$2.4 million paid by federal funds / \$600,000 match paid by DMVW).
2. Chuck Jepsen's proposal for the Napa line application was modified from the May 13, 2020, presentation. Bruce Lindholm spoke on behalf of Chuck Jepsen. The request now is an STC grant application in the amount of \$4.5 million (\$3.6 million paid by federal funds/\$900,000 match paid by Chuck Jepsen) in addition the proposal would ask to sell Chuck Jepsen the Napa-Platte rail line for \$1.5 million to be paid in installments outlined in the previously proposed payment plan to the Board.

After hearing the modifications, the Board discussed and recapped each of the five STC grant applications.

A MOTION WAS MADE by Burket and seconded by Scharnweber to table the Napa and D&I STC grant applications requests due to their complexity regarding current sales of state-owned rail line. All present voted aye by roll call vote. The motion carried.

The Board discussed the remaining applications.

A MOTION WAS MADE by Carmon and seconded by Scharnweber to approve submitting an STC application for federal funding in the amount of \$2,248,000 for the RCP&E project, contingent upon RCP&E agreeing to contribute the match on the total project cost of \$2.8 million and notifying the Department of that intent no later than Friday, May 29, 2020. All present voted aye by roll call vote. The motion carried.

Jon Kirby left the meeting at 12:29 p.m.

A MOTION WAS MADE by Carmon and seconded by Scharnweber to approve submitting an STC application for federal funding in the amount of \$1.87 million for the DMVW project, contingent upon DMVW contributing \$600,000 and the State Railroad Trust Fund contributing \$530,000 toward the total project cost of \$3.0 million. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Burket and seconded by Carmon to approve submitting an STC application for federal funding in the amount of \$1.56 million for the MRC project, and authorizing a State Railroad Trust Fund contribution in the amount of \$640,000, contingent upon Dakota Southern agreeing, no later than Friday, May 29, 2020, to contribute the remaining match of \$300,000 toward the total project cost of \$2.5 million and further contingent upon any property acquisition necessary for the project being acquired in the name of the South Dakota Department of Transportation and further contingent upon the project consisting of a meet and pass siding and not for storage use. All present voted aye by roll call vote. The motion carried.

Jundt introduced the consideration of excess property sales to interested existing lease holders. The Department is in negotiations to sell the Sioux Valley rail line and the sales of the excess properties will help to clear up ownership issues before the actual sale of the line.

Dokken 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 are 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 #2 of the agenda packet.

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 #990 and #991 to Kevin DeRocher. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1062 and #1603 to Steven Sitzman. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1113 to Randall Johnson. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #992, #1232, and #1466 to Central Valley Ag. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1260 to Mike Caskey. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1288 to Akron Lumber Company and sell an additional parcel of abutting non-leased property to the same party. The sale of all property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1518 to the City of Akron. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 lease #1635 to L.G. Everist, Inc. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1179 to Union County Fairboard. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 lease #1009 to Elizabeth Grace-Cruz. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 # 1294, #1460, and #1522 to Southeast Farmers Coop and sell an additional parcel of abutting non-leased property to the same party subject to the following conditions:

1. Waiver of purchase rights by any owners of abutting land; and
2. The state's reservation of ownership of leased property 25 feet from the center of the main line track.

The sale of all property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1408 to Dennis Altena subject to the state reserving ownership to a strip of leased property extending 25 feet from the center of the mail line track. The sale of all property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1524 to Jerry and Sharon Van De Stroet. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 lease #1529 to City of Hawarden. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1360 and #1424 to Cooperative Farmers Elevator. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1598 to the South Dakota Department of Game, Fish & Parks. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1373 to The Station/Terry Morehead. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 # 1520 to Ken Less. The sale of the property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. 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 #1025 to Tim Bakker and sell an additional parcel of abutting non-leased property to the same party. The sale of all property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. All present voted aye by roll call vote. The motion carried.

Dokken asked the Board to consider a joint powers agreement between the Department and Pennington County that would authorize the Pennington County Weed Board to continue to perform weed control services on the MRC rail line between Maple Street in Rapid City and the city of Interior for the approximate cost of \$6,600.

A MOTION WAS MADE by Burket and seconded by Scharnweber to approve the requested agreement with Pennington County in the amount of \$6,600 for weed control services on the MRC rail line. All present voted aye by roll call vote. The motion carried.

Dokken introduced Nick Feira of United Development to present a request to purchase excess property in the town of Reliance. The property would be assembled with two other parcels of land, which are not owned by the Department, for the purpose of developing a retail location.

A MOTION WAS MADE by Burket and seconded Scharnweber to authorize the Secretary or his designee to execute all the documents necessary to sell the state-owned railroad property to United Development subject to the waiver of purchase rights from all owners of abutting lands. The sale of all property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. All present vote aye by roll call vote. The motion carried.

Jundt shared that at the June 17, 2020, Board meeting, the Board will take action on the leased excess property on the Britton rail line.

With no other business to come before the Board, Cope adjourned the meeting at 1:56 p.m.