

**SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES  
JULY 17, 2019 AT 11:00 A.M. CDT  
BECKER-HANSEN BUILDING – DOT COMMISSION ROOM  
700 EAST BROADWAY AVE, PIERRE, SOUTH DAKOTA**

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

**MEMBER PRESENT  
VIA CONFERENCE CALL:** Jon Kirby, Member

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

**OTHERS PRESENT:** Blake Jones– Rapid City Pierre & Eastern Railroad, Inc. (RCP&E); Alex Huff; Dick Huff; Dan Kippley – Ellis & Eastern Company; Scott Van Den Top – D & I Railroad Co. (D&I); Rob Everist – D&I; Dean Krogman – RCP&E; Heath Haden – Dakota Southern Railway Company (DSRC); Bob Mercer – Keloland; Mark Trottier – Dakota, Missouri Valley & Western (DMVW)

**OTHERS PRESENT  
VIA CONFERENCE CALL:** John LeSeur – Slover & Loftus; Philip Deal – Wheaton Dumont Co-Op Elevator (WDCE); Russ Hazel – Sioux Valley Regional Railroad Authority (SVRRA)

Chairman Jerry Cope called the meeting of the South Dakota State Railroad Board (the “Board”) to order at 11:00 a.m.

Cope determined a quorum was present.

Cope welcomed Jon Kirby as the newly appointed member to the Board. Kirby shared a brief introduction of himself.

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

Karla Engle, Office of Legal Counsel, presented the annual conflict of interest disclosures received from Gary Doering and Jerry Cope. Each of the conflict of interest disclosures were previously submitted to the Board; Doering’s prior disclosure was dated November 14, 2018, and

Cope's prior disclosure was dated July 31, 2018. The Board acknowledged receipt of Doering and Cope's annual disclosure of potential conflict of interest, which will be filed with the required state agencies. A copy of the written annual disclosure forms are attached to and incorporated into these minutes as **Attachment A**.

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Cope asked for a motion to approve the June 19, 2019, Board meeting minutes.

A MOTION WAS MADE by Burket and seconded by Carmon to approve the June 19, 2019, meeting minutes. All present voted aye by roll call vote. The motion carried.

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Cope explained that after the regular meeting agenda items, the Board planned to enter into executive session and would be adjourning immediately after executive session.

Cope opened the floor for public input.

Mark Trottier of the DMVW Railroad provided an update on the progress and benefits of the new AGP soybean processing plant in Aberdeen and a proposed rail project to serve the plant. Trottier advised the project proposal has not been finalized, but DMVW hopes to return to the Board with a funding request in the future.

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Engle asked the Board to consider amending the legal services contract with the Slover and Loftus law firm to extend the contract term to December 31, 2020, and increase maximum expenditure for services by an additional \$100,000.00.

A MOTION WAS MADE by Scharnweber and seconded by Nelson to authorize the Secretary to execute an amendment to the South Dakota Department of Transportation's (the "Department's") legal services contract with Slover and Loftus to extend the term of the agreement to December 31, 2020, and increase the maximum amount that may be expended under the agreement by an additional \$100,000.00. All present voted aye by roll call vote. The motion carried.

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Jack Dokken of the Office of Air, Rail, And Transit opened the discussion regarding the request of H&H Land Company #2 to purchase railroad property in Caputa, South Dakota. Because a representative from H&H Land Company #2 was not present to address the request, the item was deferred to the August meeting.

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Deputy Secretary Joel Jundt presented the Secretary's Report. Jundt shared that the Department successfully submitted a BUILD Grant application for the Sisseton Millbank Railroad as approved by the Board at the June 19, 2019, Board meeting.

Jundt updated the Board that the Federal Railroad Authority ("FRA") will be issuing a notice of funding opportunity for another round of CRISI grants within the next few months.

Jundt shared the press release from Genesee & Wyoming Inc ("G&W") stating G&W will be acquired by Brookfield Infrastructure and GIC in a transaction valued at approximately \$8.4 billion. Jerry Vest of RCP&E has offered to answer questions on the sale.

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Jundt presented information regarding the potential sale of state-owned rail lines. Jundt reported the Department continues to work on proposed sales packets relating to the different rail lines. The Department is not proposing any changes to the sales process since the discussion of this item at the June Board meeting.

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Heath Haden, representative from DSRC, provided an update on DSRC's flood recovery and repair efforts on the Mitchell to Rapid City (MRC) rail line.

Scott Van Den Top, representative from D&I, provided an update on the progress D&I has made on restoration of the Sioux Valley rail line.

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Cope asked for a motion for the Board to go into executive session.

A MOTION WAS MADE by Carmon and seconded by Burket to go into executive session pursuant to South Dakota Codified Law 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 in a roll call vote. The motion carried.

Executive session began at 11:45 a.m. and ended at 1:03 p.m.

With no other business to come before the Board, the meeting was adjourned by the Chair at 1:03 p.m.

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LEGAL OFFICE

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER  
PURSUANT TO SDCL CHAPTER 3-23

THIS IS A PUBLIC DOCUMENT

Name of Member: Don Paen

Name of Board, Authority or Commission: \_\_\_\_\_

The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority or commission is attached for reporting or oversight purposes ~~and which contract requires the expenditure of government funds;~~
- 2) ~~With the state and which contract requires the approval of the Member's board, authority or commission and the expenditure of government funds; or~~
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
  - a. Is under the regulatory oversight of the authority, board, or commission, or
  - b. Is under the regulatory oversight of the agency to which the Member's board, authority or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority or commission to have an interest or derive a benefit from the contract.

The Member shall also identify every entity in which the Member possesses an ownership interest of five percent or greater if:

- 1) The entity receives grant money from the State, either directly or by a pass-through grant or
- 2) The entity contracts with the State or any political subdivision for services.

1. Contracts in which you have an interest pursuant to SDCL Chapter 3-23 and which do not violate any other provision of law - Provide the following for each contract in which you have, or will have, an interest. For further information see SDCL 3-23-2.1 and 3-23-3.1.

Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable
Uncompensated volunteer of East Central Regional Health District	Don from Regional Health District applied for grants & services from National Endowment	to prepare records	<del>June 18-19</del> June 18-19

Attach additional pages, if necessary.

2. Contracts in which you have a direct benefit pursuant to SDCL Chapter 3-23 - Provide the following for each contract from which you derive, or will derive, a direct benefit. For more information see SDCL 3-23-2, 3-23-2.2 and 3-23-3.1.

Description of the contract	Parties	Description of the direct benefit	Date contract was authorized

Attach additional pages, if necessary.

3. Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services - Provide the following for each such entity. See SDCL 3-23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

*Attach additional pages, if necessary.*

The member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority or commission in order for the Member to legally derive a direct benefit.

Signature of Member: Mary Doan Date: 9-12-09

ANNUAL DISCLOSURE FOR AUTHORITY/BOARD/COMMISSION MEMBER  
PURSUANT TO SDCL CHAPTER 3-23

**THIS IS A PUBLIC DOCUMENT**

Name of Member: **Jerry Cope**

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Name of Board, Authority, or Commission: **South Dakota State Rail Board and State Rail Authority**

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The Member shall disclose below any contract in which the Member has an interest or from which the Member derives a direct benefit if the contract is:

- 1) With the state agency to which the Member's board, authority, or commission is attached for reporting or oversight purposes and which contract requires the expenditure of government funds;
- 2) With the state and which contract requires the approval of the Member's board, authority, or commission and the expenditure of government funds; or
- 3) With a political subdivision of the state if the political subdivision approves the contract and:
  - a. Is under the regulatory oversight of the authority, board, or commission, or
  - b. Is under the regulatory oversight of the agency to which the Member's board, authority, or commission is attached.

The Member shall disclose the contract even though no additional authorization is needed from the Member's board, authority, or commission to have an interest or derive a benefit from the contract.

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Description of the contract	Parties	Description of your interest/role in the contract	Date contract was previously disclosed, if applicable
*State Rail ROW land purchase east of Presho  *Murdo State Rail Land lease  *Presho State Rail Land lease	Dakota Mill & Grain Inc for all purchases and leases	Employed by Dakota Mill & Grain Inc.	*State Rail ROW land purchase east of Presho 2018  *Murdo State Rail Land lease - ongoing  *Presho State Rail Land lease - ongoing

*Attach additional pages, if necessary.*

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3. **Entities in which you possess an ownership interest of five percent or more that receive grant money from the State, either directly or by a pass-through grant, or that contract with the State or any political subdivision for services** – Provide the following for each such entity. See SDCL 3.23-3.1.

Description of the contract or grant	Party in which you possess the interest	State agency or subdivision

*Attach additional pages, if necessary.*

The Member shall complete a separate authorization request for any contract identified above that requires authorization from the Member's board, authority, or commission in order for the Member to legally derive a direct benefit.

Signature of Member:  Date 7/11/19