

SOUTH DAKOTA STATE RAILROAD BOARD SPECIAL MEETING MINUTES
NOVEMBER 6 – 7, 2019
BECKER-HANSEN BUILDING/ DOT COMMISSION ROOM
700 EAST BROADWAY AVENUE, PIERRE, SOUTH DAKOTA

MEMBERS PRESENT: Jerry Cope, Chairman
Jeff Burket, Vice-chairman
Greg Carmon, Member
Jon Kirby, Member

MEMBER PRESENT
VIA CONFERENCE CALL: Gary Doering, Member

DOT STAFF PRESENT: Joel Jundt, Karla Engle, Bonnie Olson, Misty Siedschlaw, Perry Griffith,
Rayleen Rathbun, Lexi Henning, Chris Ott (November 6), and Kari Kroll

OTHERS PRESENT
ON NOVEMBER 6, 2019: Chip Gerlach and Lynn Deinert – Farmers Elevator Co. (Mt. Vernon); Pete Christensen; Mark Klein; Terence Hickey; Gary Feltman; John Rodgers; Randy Johnson; and Dennis Altena.

OTHERS PRESENT
VIA CONFERENCE CALL
ON NOVEMBER 6, 2019: Martin Mortenson; Bart Banks - Dakota Mill & Grain; Frank Volmer - Chamberlain Auction; Todd Orth; Jeff Williamson - City of Chamberlain; Bruce Steckelberg; Richard Grover; Nick Alderson – Farmers Union Oil Company (Murphy); Dean Maas; Perry Guptill; Jeffery Tschetter; Steve Sitzman; Dan Rolfes - City of Akron; Don Truhe - Southeast Farmers Coop; Joe Van Walbeek - Akron Lumber Co; Rob Jacobs - Cooperative Farmers Elevator; Jerry Brick – North Star Energy; Josh Kraft - K Properties; and Philip Deal – Britton Grain Terminal LLC.

OTHERS PRESENT
ON NOVEMBER 7, 2019: Rod Bowar – Town of Kennebec; Christopher and Katie Nix; James Hockenbary; Jim Lutter - Valley Spraying Service; Valerie Moore – Town on Oacoma; Leonard and Barb Springer; Terry and Amy Kenobbie; Dan Schulte – Geddes Farmers Coop; Wayne Blair – 4J Enterprises; Doyle Reinschmidt; Chet Edinger; Jimmy Miller; Alan Assmus; Joe Bosworth;

OTHERS PRESENT
VIA CONFERENCE CALL
ON NOVEMBER 7, 2019: Eugene Mertens; Cody McKenzie; Charles Baker - Baker Trucking; Ryan Skluzak; Laverne Schieffer - Town of Tabor; Dan Melichar; Ed Sedlacek; Mike Caskey; and Kary Knapp - 507 South Main Street/Hansen-Mueller.

Chairman Jerry Cope called the meeting of the South Dakota State Railroad Board (the "Board") to order at 9:00 a.m. CST.

Cope determined a quorum was present.

Cope 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.

Cope reminded the Board of his previously disclosed conflict of interest with matters pertaining to Dakota Mill & Grain. Cope will recuse himself from any discussion concerning Dakota Mill & Grain.

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

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

Deputy Secretary Jundt went through the process for the meeting today and tomorrow. The Board would hear from lease holders either in person or via conference call indicating what the property is currently being used for, what improvements, if any, are planned for the property, and whether or not the lease holder is interested in purchasing the leased property.

Karla Engle, Office of Legal Counsel, provided the Board with information on the legal environment we are in when talking about excess property and the sale of the rail line. Engle referred the Board members to Section 3.11 of the Invitation for Proposals ("IFP"), where the Department of Transportation (the "Department") has reserved the right to exclude any excess property from the sale of the lines at any time prior to execution of a line purchase agreement. Engle referred the Board to South Dakota Codified Law (SDCL) 1-44-28 regarding the sale of rail property that will not be used for railroad purposes. Within the context of the IFP, Engle offered a few hypothetical situations. Engle also emphasized that the Department may not own marketable fee title to any leased properties and that the State of South Dakota would only be able to convey whatever it owns by quit claim deed.

Lease holders took turns by participating in person and via conference call to address the Board to indicate what their lease is currently being used for, what improvements, if any, the lease holder has made or plans to make to the property, and whether or not they are interested in purchasing the property. The Board also reviewed information from lease holders who chose not to call in or appear in person, but who had made written submissions requesting the opportunity to purchase their leased properties.

Cope turned the meeting over to Vice-chairman Jeff Burket when Bart Banks of Dakota Mill & Grain (DMG) telephoned to address DMG's lease agreement and purchase request. Cope abstained from the discussion. Burket turned the meeting back over to Cope after the call with DMG ended.

Engle clarified that if the Board would decide to sell any excess leased property, the purchaser would be responsible for platting the property (if needed) and obtaining an appraisal by a certified appraiser. The Department would review the appraisal report to determine if the appraisal was acceptable to the Department.

The Board took a brief break at 11:07 a.m. and reconvened at 11:20 a.m.

The Board took a break for lunch at 1:00 p.m. and reconvened at 1:25 p.m.

The Board recessed for the day at 3:00 p.m. on November 6, 2019.

The Board reconvened at 9:00 a.m. on November 7, 2019.

The Board continued hearing from lease holders in person and via conference call.

Jundt requested guidance from the Board regarding the upcoming November 20, 2019, Board meeting. Jundt explained there were no items for the agenda. The Board decided to cancel the November 20, 2019, Board meeting. The next meeting for the Board will be a Special Meeting on December 4, 2019, to discuss proposals submitted in response to the Department' Invitations for Proposals (IPFs) for sale of the State-owned rail lines. The Board decided to start the December 4, 2019, meeting at 9:00 a.m. CST.

With no other business to come before the Board, Chairman Cope adjourned the meeting at 11:54 a.m. on November 7, 2019.