

SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES

Wednesday, October 18, 2023 at 11:00 a.m. CDT

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

MEMBERS PRESENT: Jeff Burket, Chairman
Jerry Cope
Steve Scharnweber
Scott Lockwood
Jack Nelson

**MEMBERS PRESENT
VIA CONFERENCE CALL:** Greg Carmon and Ralph Schmidt

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

OTHERS PRESENT: Scott Van Den Top – D&I Railroad Company (D&I); Rob Everett – D&I; Ryan Yanez – Ringneck & Western Railroad, LLC (RWRR); Ross Lane – Rapid City, Pierre & Eastern Railroad, Inc. (RCPE); Mike Kellar – RCPE; Hollie Stalder – Belle Fourche Economic Development Corporation (BFEDC); Mark Trottier – Dakota, Missouri Valley & Western Railroad Inc. (DMVW); Troy Fast – DMVW; Mark Wagner – Sisseton Milbank Railroad (SMRR); Jeff Cooley – Civil Design Inc. (CDI); Bruce Lindholm – Grant Solutions; and Bob Mercer – Keloland

**OTHERS PRESENT
VIA CONFERENCE CALL:** Jerry Vest – RCPE; Shannon Ausen – City of Sioux Falls; Mark Hobbler – Watco/RWRR; Dan Kippley – Ellis & Eastern Dick Huff; and Alex Huff

Chairman Jeff Burket called the Special 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 reminded the Board of his previously disclosed conflict of interest regarding the pending Special Transportation Circumstance (STC) grant application of Sisseton Milbank Railroad Company (SMRR) and his employment with SMRR. Schmidt will recuse himself from the discussion and vote on the STC grant requests on the Board’s agenda.

Burket asked for a motion to approve the September 20, 2023 Board meeting minutes.

A MOTION WAS MADE by Nelson and seconded by Scharnweber to approve the September 20, 2023 Board meeting minutes. All present voted aye by roll call vote. The motion carried.

Burket opened the floor to public input. He noted that two letters were received by the Board from Dick and Alex Huff, which were posted on the State's Board & Commission webpage.

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

Secretary Joel Jundt presented to the Board the Secretary's Report. He reported that Congress has passed a Continuing Resolution that will expire November 17, 2023. If no appropriations bill is passed by this time and the federal government shuts down, this could slow down the federal grant process as well as reimbursement of grant funding during the shutdown.

He also noted that typically, the Consolidated Rail Infrastructure and Safety Improvement (CRISI) grants come out in the fall, but Congress needs to have an appropriations bill in place for that to occur. If Congress funds this at the same levels in the past, the Department of Transportation (the "Department") would anticipate roughly \$22 million for next year's STC grant funds. This program is under the Infrastructure and Investment Jobs Act (IIJA) and expires in 2026.

Ralph Schmidt left the meeting at 11:11 a.m.

Jack Dokken, Program Manager of the Office of Air, Rail, and Transit presented the details of a request from Ringneck & Western Railroad, LLC (RWRR) to increase the federal funding on an awarded 2020 STC grant for the construction of a meet and pass siding located on the Mitchell-Rapid City rail line. The amount of the requested federal funding increase is \$797,353. Since the original grant application was approved on May 20, 2020, the estimated project costs have risen, resulting in a requested funding shortfall.

Ryan Yanez of RWRR was available to the Board to answer questions.

A MOTION WAS MADE by Cope and seconded by Scharnweber to approve the adjustment to the 2020 STC grant awarded to Ringneck & Western, LLC in the amount of \$797,353 and amend the purchase agreement for the Mitchell-Rapid City Rail Line to reflect the adjustment. All present voted aye by roll call vote. The motion carried.

Dokken introduced the Department's STC grant application scores to the Board for its consideration of the STC project intake forms. He shared that a group of five Department grant specialists scored each project based on criteria identified in the Rail Investment Guide that the Board approved in December 2022. Dokken reminded the Board that the guide and the scoring is meant as a tool to assist the Board with decisions and is not a mandate. Based on the Department's scoring and review, Dokken made the following STC federal grant award recommendations:

State of South Dakota Project Option 2A to reconstruct from MP 0.0 to 11.37 with new rail and bridge repair, crossing reconstruction, tree and bush removal, grade repair, and culvert replacement: \$11,539,568 STC grant award;

RCPE Project to replace 21.25 miles of rail with used rail, 38 bridge upgrade and replacements, rehabilitate 376 track feet of crossings, & install 3 new turnouts: \$14,062,328 STC grant award;

DMVW Project B to replace 4 switches, install 4 concrete crossings, install 38,500 ties, 77,000 tons of ballast and surfacing mileposts (MP) 115.4 to 42.81 and Britton spur, and replacing anchors between MP 115.4 - 83.5, MP 74.6 & MP 42.81 and Britton spur: \$14,526,728.40 STC grant award;

BFEDC Project Option 1 – 110 ft. of realignment, construct 2,960 ft. siding, install 1 turnout, install security cameras, light fixtures, & gravel 4.62 acres: \$1,467,440.00 STC grant award less the security cameras, light fixtures, and gravel ;

D&I Project Segment 1 – replace 5.8 miles of rail (MP 29.86 to 35.66) and Segment 2 – replace 6.04 miles of rail (MP 81.65 to 87.69). Total rail replacement of 11.84 miles of rail: \$9,957,245.60 STC grant award; and

RWRR Project location is MP 445 to 481 and MP 434 to 442.5. Install 31,600 ties, 17,000 tons of ballast, 44 miles of surfacing, replace 468.15 culvert and bridgework at 454.3, 455 and 455.2: \$8,310,932.00 STC grant award.

Dokken informed the Board that there was approximately \$58.8 million in STC funds available.

The Board received additional information from representatives of the STC grant applicants in the following order:

1. **State of South Dakota Project Representatives:** Jack Dokken and Secretary Joel Jundt, Department of Transportation

STC Project: There are two options – Option 1 is reconstruction from MP 0.0 to MP 20.9 with either new (Option 1A) or relay (Option 1B) 115# rail. Option 2 is reconstruction from MP 0.0 to MP 11.37 with either new (Option 2A) or relay (Option 2B) #115 rail. Both options include bridge repair, crossing reconstruction, tree and brush removal, grade repair, and culvert replacement.

STC Funding Request:

- Option #1A \$27,277,980 estimated total project cost, consisting of \$21,822,384 (80%) in federal grant funding and \$5,455,596 (20%) match by the Railroad Trust Fund/Department of Transportation
- Option #1B \$23,655,980 estimated total project cost, consisting of \$18,924,784 (80%) in federal grant funding and \$4,731,196 (20%) match by the Railroad Trust Fund/Department of Transportation
- Option #2A \$14,424,460 estimated total project cost, consisting of \$11,539,568 (80%) in federal grant funding and \$2,884,892 (20%) match by the Railroad Trust Fund/Department of Transportation
- Option #2B \$12,530,460 estimated total project cost, consisting of \$10,024,368 (80%) in federal grant funding and \$2,506,092 (20%) match by the Railroad Trust Fund/Department of Transportation

2. DMVW Project Representative: Mark Trottier, DMVW

STC Project:

- Project A This project would entail replacing 4 switches at MP 27.52, MP 28.40, MP 28.45, and MP28.25. It would include installing 22,800 ties,45,600 tons of ballast, skew tie correction and surfacing between MP 115.4-74.2 and between Jarret Junction to Britton, SD. It would also include replacing anchors between MP 115.4-83.5 and Jarret Junction to Britton, SD.
- Project B This project would entail replacing 4 switches at MP 27.52, MP 28.40, MP 28.45, and MP28.25 and installing 4 new concrete crossings. It would include installing 38,500 ties,77,000 tons of ballast, skew tie correction and surfacing between MP 115.4-42.81 and between Jarret Junction to Britton, SD. It would also include replacing anchors between MP 115.4-83.5, MP74.6 & MP42.81 and Jarret Junction to Britton, SD.
- Project C This project would entail replacing 4 switches at MP 27.52, MP 28.40, MP 28.45, and MP28.25 and installing 4 new concrete crossings. It would include installing 38,500 ties,77,000 tons of ballast, skew tie correction and surfacing between MP 115.4-42.81 and between Jarret Junction to Britton, SD. Replacing anchors between MP 115.4-83.5 & between the MP of 45.7-43.75,48.1-47.34,54.89-50.64,63.05-55.07 of and Jarret Junction to Britton, SD. Installing 115-pound rail between MP 115.04-110.2 & Jarret Junction to Britton.
- Project D This project would entail replacing 4 switches at MP 27.52, MP 28.40, MP 28.45, and MP28.25 and installing 4 new concrete crossings. It would include installing 38,500 ties,77,000 tons of ballast, skew tie correction and surfacing between MP 115.4-42.81 and between Jarret Junction to Britton, SD. Replacing anchors between MP 115.4-83.5 & between the MP of 45.7-43.75,48.1-47.34,54.89-50.64,63.05-55.07 of and Jarret Junction to Britton, SD. Installing 115-pound rail between MP 115.04-110.2 & Jarret Junction to Britton, MP 63.05-55.07, MP54.89-50.64 and MP48.1-47.35.

STC Funding Request:

- Project A \$11,259,819.25 estimated total project cost consisting of \$9,007,855.40 (80%) federal grand funding, \$1,688,972.89 (15%) match by Railroad Trust Fund, and \$562,990.96 (5%) match by DMVW

- Project B \$18,158,410.50 estimated total project cost consisting of \$14,526,728.40 (80%) federal grand funding, \$2,542,177.47 (14%) match by Railroad Trust Fund, and \$1,089,504.63 (6%) match by DMVW
- Project C \$25,992,268.00 estimated total project cost consisting of \$20,793,814.40 (80%) federal grand funding, \$3,378,994.84 (13%) match by Railroad Trust Fund, and \$1,819,458.76 (7%) match by DMVW
- Project D \$37,273,578.25 estimated total project cost consisting of \$19,818,862.60 (80%) federal grand funding, \$4,472,829.39 (12%) match by Railroad Trust Fund, and \$2,981,886.26 (8%) match by DMVW

3. **RCPE Project Representatives:** Ross Lane, Mike Keller, and Jerry Vest of RCPE
STC Project: The project work will include the installation of rail repurposed from the RCPE 2021 federal RAISE grant project, railroad bridge upgrades, bridge replacement, new crossing surfaces, and turnouts to allow for 286k freight cars on the northern portion of the Blacks Hills Subdivision located between Rapid City, SD and Colony, WY. In total, 21.25 miles of rail would be replaced within the project limits.
STC Funding Request: \$20,089,040 estimated total project cost in South Dakota consisting of \$14,062,328 (70%) in federal grant funding and \$6,026,712 (30%) match by RCPE. \$1,921,293 estimated total project cost in Wyoming which would be paid 100% by RCPE.

4. **BFEDC Project Representative:** Hollie Stadler, BFEDC

STC Projects:

Option #1 The project consists of 110 feet of track realignment of the existing track, 2,960 feet of new track construction, installation of one new turnout, installation of security cameras and light fixtures for safety and security and laying of gravel of 4.62 acres for two separate gravel laydown areas. The tracks will be far enough apart to unload railcars directly onto trucks on both sides of each track. In addition, if temporary storage is needed, the material from the railcars can be stored in the laydown area. Also, if material is to be loaded onto railcars it can be staged on the laydown area prior to loading onto railcars.

Option #2 Option #1 plus an effort to evaluate and select a location to develop another rail served industrial park.

Option #3 Option #2 plus the purchase of a track mobile.

STC Funding Requests:

Option #1 \$1,834,300 estimated total project cost consisting of \$1,467,440 (80%) in federal grant funds and \$366,860 (20%) match by BFEDC.

Option #2 \$1,949,300 estimated total project cost consisting of \$1,559,440 (80%) in federal grant funds and \$389,860 (20%) match by BFEDC.

Option #3 \$2,349,300 estimated total project cost consisting of \$1,879,440 (80%) in federal grant funds and \$469,860 (20%) match by BFEDC.

5. **D&I Project Representative:** Scott VanDenTop, D&I

STC Project: The proposed project will replace worn out legacy jointed rail with modern 115#/yard continuously welded ribbon rail and required associated componentry. Crossties will be replaced as necessary. The track will be surfaced and groomed following the rail and tie replacement activities. Safety improvements at 17 grade crossing are included in this project.

STC Funding Request: \$12,446,557 estimated total project cost consisting of \$9,957,245.60 (80%) and \$2,489,311.40 (20%) match by D&I

6. **RWRR Project Representatives:** Ryan Yanez, RWRR, and Matt Hoobler, Watco
STC Project: This project consists of purchasing and installing 31,600 ties, 17,000 tons of ballast, and 44 miles of surfacing. In addition to the surfacing, the project includes the replacement of a culvert at MP 468.15 and bridgework at MP 454.3, MP 455, and MP 455.2. At MP 468.15, the current culvert has detached from the internal coupler which is causing below culvert soil erosion. Failure of the culvert is imminent. This work is to repair currently identified problem areas and continue focusing resources related to subgrade problems and resurfacing from Chamberlain to Presho to minimize the risk of future embargoes.
STC Funding Request: \$10,388,665 estimated total project cost, consisting of \$8,310,932 (80%) in federal grant funding and \$2,077,733 (20%) match by RWRR.
7. **SMRR Project Representative:** Mark Wagner, SMRR
STC Project: The purpose of this project is to ensure that the worst sections of the railroad get upgraded and to repair recent flood damage. The railroad recently received news that a 2022 CRISI grant was awarded to upgrade the SMRR from Sisseton to Milbank. The SMRR is concerned that with the dramatically increased costs of rail construction the CRISI grant funding may fall short of the amount needed to reconstruct the entire railroad given the additional damage the flooding caused. The STC Funding would be utilized to rehabilitate the worst portions of the line that were impacted the most from the flooding that occurred in Spring 2023. Approximately 72 culverts were damaged or washed out during the flooding in spring 2023. The grade has been repaired, but the drainage issues caused by missing and damaged culverts (along with drainage washouts) remains. SMRR requests this funding source be approved to ensure adequate funding to reconstruct the entire railroad, including fixing the drainage issues that occurred in the spring of 2023. Currently these two rail segments are the worst on the line – trains move over these segments at walking speed with a maximum of 13 cars per train.
STC Funding Request: \$4,051,300 estimated total project cost, consisting of \$3,241,040 (80%) in federal grant funds and \$810,260 (20%) match by SMRR.
8. **City of Sioux Falls Project Representative:** Shannon Ausen, City of Sioux Falls
STC Project: The project would construct a new highway-rail grade separation overpass at 471st Avenue (N Marion Road) over the BNSF Madison Subdivision main track near Sioux Falls. This road is being upgraded to serve as a truck route for trucks to access the nearby Foundation Park rail-served industrial and logistics site from I-29 via Exit 86 (258th Street) to the north. The overpass would eliminate any traffic delays caused by train movements and provide a safety benefit by eliminating the risk of crossing related incidents. While there are no recorded accidents/incidents at the existing at grade crossing, the crossing currently only has passive warning devices (crossbuck signs and yield signs). Additionally, the crossing is skewed relative to the roadway and there is dense vegetation along the east side of the roadway, making it difficult for southbound vehicle traffic to see approaching trains coming from either direction. It should be noted that traffic crossing this at-grade rail crossing will continue to increase with the expansion of Foundation Park.

STC Funding Request: \$15,000,000 estimated total project cost consisting of \$12,000,000 (80%) federal grant funding and \$3,000,000 (20%) match by the City of Sioux Falls

During the discussion of the DMVW funding request, it was noted that the DMVW STC funding request included project work located in North Dakota, which is ineligible for STC grant funding. Mark Trottier informed the Board that the DMVW total project estimate should be reduced for Project C by \$3,991,817 (from \$25,992,268 to \$22,000,451) to eliminate work in North Dakota.

The Board took action on the pending grant applications as follows:

A MOTION WAS MADE by Nelson and seconded by Lockwood to reject the STC funding request from the State of South Dakota for the Napa-Platte rail line. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Cope and seconded by Scharnweber to reject the STC funding request from the City of Sioux Falls for the project on the BNSF rail line. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Carmon and seconded by Scharnweber to authorize the Department's Secretary or his designee to execute all documents necessary to obtain an STC grant award of \$14,062,328 for the project proposed by RCPE at a 70/30 match. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Lockwood to authorize the Secretary or his designee to execute all documents to obtain an STC grant award for the portion of Project C proposed by DMVW that is within South Dakota state limits. The total estimated project cost is \$25,992,268 which includes both North Dakota and South Dakota portions. The estimated project cost for the portion of the project in South Dakota is \$22,000,451. The Board approves 80% federal funding (estimated at \$17,600,361), a 12% match by the Railroad Trust Fund (estimated at \$2,640,054) and an 8% match by DMVW (estimated at \$1,760,036), all for the portion of the project in South Dakota only. The Board further approves a Railroad Trust Fund allocation to fund 100% of the cost of the portion of the project in North Dakota, estimated at \$3,991,817. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Lockwood to approve option #1 in its entirety. The motion failed due to the lack of a second.

A MOTION WAS MADE by Lockwood and seconded by Cope to authorize the Secretary or his designee to execute all documents to obtain an STC grant award for Project #1 proposed by BFEDC except for the lighting, laydown area, and security cameras. The grant would be for 80% federal funding and a 20% match made by BFEDC. 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 to obtain an STC grant award for the project proposed by D&I with an estimated total project cost of \$12,466,557. The grant would be for 80% federal funding and a 20% match made by D&I. 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 to obtain an STC grant award for the project proposed by SMRR with an estimated total project cost of \$4,051,300. The grant award would be 80% federal funding and 20% match by SMRR. All present voted aye by roll call vote. The motion carried.

A MOTION WAS MADE by Scharnweber and seconded by Nelson to authorize the Secretary or his designee to execute all documents to obtain an STC grant award for the project proposed by RWRR with an estimated total project cost of \$10,388,665. The grant award would be for 80% federal funding and a 20% match supplied by RWRR. All present voted aye by roll call vote. The motion carried.

Kellie Beck, Director of the Division of Finance and Management, shared with the Board that the STC grants approved by the Board totaled an estimated \$54.8 million in STC federal funding, leaving an estimated \$3.2 million in STC funds for future projects.

Dokken shared with the Board and the project representatives that the Federal Railroad Administration (FRA) deadline for submitting completed STC application forms is December 15, 2023. He requested the completed applications be turned into the Department no later than December 6, 2023, for submission to the FRA.

Secretary Jundt reminded the Board that this was the first time using the intake forms since the Railroad Investment Guide. He suggested that at a future meeting, the Board review the scoring criteria to see if any changes should be made.

With no other business to come before the Board, Burket adjourned the meeting at 1:53 p.m. CDT.