

SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES
October 21, 2020 at 11:00 a.m. CDT via conference call
BECKER-HANSEN BUILDING / DOT COMMISSION ROOM
700 EAST BROADWAY AVENUE, PIERRE, SOUTH DAKOTA

MEMBERS PRESENT

VIA CONFERENCE CALL: Jerry Cope, Chairman
Steve Scharnweber, Secretary
Greg Carmon, Member
Jack Nelson, Member
Jon Kirby, Member

DOT STAFF PRESENT: Kari Kroll

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VIA CONFERENCE CALL: Joel Jundt, Jack Dokken, Karla Engle, Perry Griffith, Bonnie Olson, and Misty Siedschlaw

OTHERS PRESENT

VIA CONFERENCE CALL: Alex Huff; Dan Kippley – Ellis & Eastern Company; Lorrie Hanson; Mark Trottier – Dakota, Missouri Valley & Western Railroad, Inc. (DMVW) and Scott Van Den Top – D & I Railroad Co. (D&I)

Chairman Jerry Cope called the meeting of the South Dakota Railroad Board (the “Board”) to order at 11:02 a.m. CDT. A roll call was taken, and a quorum was determined.

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) chapters 3 – 23.

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

Cope asked for a motion to approve the September 16, 2020, Board meeting minutes.

A MOTION WAS MADE by Kirby and seconded by Carmon to approve the September 16, 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.

Deputy Secretary Jundt presented the Secretary's Report. Jundt shared that the Department of Transportation (the "Department") is currently working on the purchase agreements for the Sioux Valley and Mitchell-Rapid City (MRC) rail lines. He asked Karla Engle, Chief Legal Counsel from the Department's Legal Office, to explain the process/timeline to complete the sale of the rail lines

Engle outlined the process for the sale of the rail lines to the Board. Once final language has been approved by Board and an agreement has been executed, a request for approval of the sale is then submitted to the Surface Transportation Board ("STB") for their approval. Once the request is submitted to the STB, there is typically a 60-day waiting period before approval by the STB. Upon receipt of approval by STB, a closing on the sale can then be held.

Jundt requested input from the Board regarding new requests for excess property sales on the Sioux Valley and MRC rail lines. The Board determined that no new requests would be reviewed by the Board for the Sioux Valley or MRC rail lines and instead, if new requests are submitted by a lessee or landowners for acquisition of excess property, the requestor will be directed to contact the new owner of the rail line after the closing.

Jundt asked the Board to review the proposed 2021 meeting dates and provide feedback as to any conflicts with the proposed dates. The Board concurred the proposed dates were acceptable and agreed meetings would remain on the 3rd Wednesday of the month for 2021.

Jack Dokken, Office of Air, Rail, and Transit, presented to the Board consideration of excess property sale on the Britton rail line as request by Lorrie Hanson.

A MOTION WAS MADE by Carmon and seconded by Kirby to authorize the Secretary or his designee to execute all the documents necessary to sell the requested state-owned railroad property to Lorrie Hanson 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.

Dokken asked Mark Trottier of DMVW rail line to provide an update concerning the DMVW connection to the AGP Soybean Plant in Aberdeen. Trottier shared that the project was completed at the end of September and the first 32-car train entered the soybean plant the first week of October. DMVW forecasted a steady 32 cars a week through the 1st of the year.

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

A MOTION WAS MADE by Nelson and seconded by Carmon 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 11:28 a.m.

Cope called the meeting back into session at 12:15 p.m., with Scharnweber, Carmon, Nelson, and Kirby present.

Jundt shared with the Board that at the November meeting, the Board will be asked to take action on excess lease properties on the Napa Platte rail line and possibly the final agreement on the sale of the Sioux Valley rail line.

With no other business to come before the Board, Cope adjourned the meeting at 12:17 p.m.

DRAFT