

SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES

Wednesday, March 15, 2023 at 11:00 a.m. CDT

Becker-Hansen Building/ Commission Room – 700 E. Broadway Ave, Pierre SD

MEMBERS PRESENT: Jerry Cope, Chairman
Jeff Burket, Vice-chairman
Steve Scharnweber, Secretary

MEMBERS PRESENT

VIA CONFERENCE CALL: Jon Kirby

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

OTHERS PRESENT: Dan Kippley – Ellis & Eastern Company; Ryan Yanez – Ringneck & Western Railroad, L.L.C. (RWRR); and Bob Mercer – KELOland

VIA CONFERENCE CALL: Mark Trottier – Dakota, Missouri Valley & Western, Inc. (DMVW); Deb Cooney –Lake Andes Coop; Heath Haden – Dakota Southern; Mike Keller – Rapid City, Pierre & Eastern Railroad (RCP&E); Dan Bilka – All Aboard Northwest; Dick Huff; Alex Huff; and David Scott

Chairman Jeff Burket called the 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.

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

Burket asked for a motion to approve the November 16, 2022 Board meeting minutes.

A MOTION WAS MADE by Cope and seconded by Scharnweber to approve the November 16, 2022 meeting minutes. All present voted aye by roll call vote. The motion carried.

Burket opened the floor to public input.

Dan Kippely of Ellis & Eastern shared with the Board that in light of the Special Transportation Circumstance (STC) grant funding still not being awarded for 2022, Ellis & Eastern would like to present a rail relay project for possible funding in the amount of \$3.5 million.

Secretary Joel Jundt presented the Secretary's Report. He shared the following items:

- Congress passed an appropriations bill in December of 2022 which fully funded the federal government through FFY2023. They provided \$560 million for the Consolidated Rail Infrastructure and Safety Improvement (CRISI) grant program.
- During the 2023 state legislative session, the Department of Transportation (the "Department") testified for SB16 that would provide \$6.25 million of general funds to the Department for the Sisseton-Milbank Railroad (SMRR) project as part of the match requirement for a federal CRISI grant if awarded. The bill passed both houses and is waiting for the Governor's signature.
- The STC Notice of Funding Opportunity (NOFO) has still not been announced by the Federal Railroad Administration (FRA) but when Jundt inquired to FRA, they stated their goal was to have the NOFO announced in April 2023. This year's amount is expected to be approximately \$20-22 million, which will be combined with the current \$4 million for a total of around \$26 million to award if the Board chooses. Misty Siedschlaw from the Office of Air, Rail, and Transit shared that the grant applications have been updated since the original presentations and applicants are ready to present the updates in April if the NOFO is announced prior to the April Board meeting.

Kellie Beck, Director of Finance & Management Division, presented for Board consideration a request by Lake Andes Co-op Co to remove rail and grade on the state-owned Napa to Platte line. She shared that the work was done in May 2022 before a lease or any permits could be approved and action needed to be taken to rectify the issue.

A MOTION WAS MADE by Scharnweber and seconded by Kirby to authorize issuance of a lease and permits to allow track removal, a crossing and occupancy of the land by Lake Andes Co-op Co. All present voted aye by roll call vote. The motion carried.

Beck then introduced for Board consideration the 2023 Railroad Maintenance Plans for the state-owned rail lines.

Mark Trottier of Dakota, Missouri Valley, and Western (DMVW) presented DMVW's plan for the Britton rail line.

A MOTION WAS MADE by Cope and seconded by Scharnweber to approve the DMVW 2023 Railroad Maintenance Plan. All present voted aye by roll call vote. The motion carried.

Heath Haden of Dakota Southern Railway (DSRC) presented DSRC's plan for the Napa – Platte rail line. Haden requested that compliance with the 2023 rail plan relieve DSRC of the lease obligation (found in section 19 of the lease) to complete rail improvements for this year on the Napa Line.

A MOTION WAS MADE by Scharnweber and seconded by Kirby to approve the DSRC 2023 Railroad Maintenance Plan, with the addition of the obligation to perform noxious weed spraying extending from the Napa wye to Ravinia. Compliance with the plan would be in lieu of the lease obligation (found in section 19 of the lease) to complete rail improvements for this year on the Napa Line. All present voted aye by roll call vote. The motion carried.

Mike Keller of Rapid City, Pierre & Eastern Railroad (RCP&E) presented the plans for the Wolsey Interchange and the Yale rail line.

A MOTION WAS MADE by Scharnweber and seconded by Kirby to approve RCP&E's 2023 Railroad Maintenance Plans. All present voted aye by roll call vote. The motion carried.

Beck then presented for Board consideration a list of dates for the 2023 rail line observation tours. Mark Trottier of DMVW shared that the rail line may not be cleared of snow yet.

Upon further discussion, no action was taken at this meeting and the scheduling of tours was postponed. New dates will be presented at the April Board meeting.

Lastly, Beck presented for Board consideration two noxious weed control agreement requests.

- The first request is a joint powers agreement with Pennington County Weed Board for control of the noxious weeds on the Mitchell-Rapid City (MRC) rail line located in the railroad right of way between Maple Street Yard in Rapid City and Interior, SD in the amount of \$7,100 for the year 2023.
- The second request is for an agreement with Dakota Helicopters Inc. for spraying service to control noxious weeds on the railbanked portion of the Napa-Platte rail line from Ravinia to Platte and the railbanked portion of the MRC rail line from Interior to Kadoka, SD. Dakota Helicopters Inc. quoted SDDOT the price of \$70.32 per acre. The total agreement for the spraying services would be approximately \$22,150.80 for the year 2023.

A MOTION WAS MADE by Cope and seconded by Scharnweber to approve the joint powers agreement with Pennington County and the agreement with Dakota Helicopters, Inc for noxious weed control. All present voted aye by roll call vote. The motion carried.

Burket asked for a motion for the Board to enter into executive session.

A MOTION WAS MADE by Cope and seconded by Scharnweber to enter into executive session pursuant to SDCL 1-25-2(3) for the purpose of consulting with legal counsel and reviewing communications from legal counsel about proposed or pending litigation or contractual matters. All present voted aye by roll call vote. The motion carried.

The Board entered into executive session at 11:52 a.m.

The Board reconvened in open session and a quorum was determined. With no other business to come before the Board, Burket adjourned the meeting at 12:30 p.m. CT.