



## Department of Transportation

### Office of Legal Counsel

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### MEMORANDUM

**To:** South Dakota Railroad Authority

**From:** Karla Engle

**Date:** February 10, 2021

**Re:** Corrective Deeds and Quit Claim Deed Request

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The Mitchell to Rapid City railroad line was acquired by the South Dakota Railroad Authority ("SDRA") by deeds executed by the Trustee of the property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company ("CMSP&P") in 1981. South Dakota Codified Law ("SDCL") 49-16B-43 required that once all debts on the MRC Line had been satisfied, the SDRA convey the MRC Line to the Division of Railroads within the South Dakota Department of Transportation ("DOT"). SDRA conveyed the MRC Line to the Division of Railroads in 1982. Effective July 1, 1996, SDCL 49-16B-43 was amended to require that conveyances from that date forward be made by the SDRA to the South Dakota Department of Transportation, rather than the Division of Railroads.

As part of the deed preparation for the MRC Line, DOT has discovered some minor errors or omissions in the deeds from SDRA to DOT. DOT is requesting that the SDRA authorize execution of three corrective deeds and one quit claim deed to address these minor errors or omissions. The attached resolutions detail the items that need to be corrected through corrective deeds or a quit claim deed from SDRA to DOT. DOT believes these items should be addressed before the closing on the sale of the MRC Line.

RESOLUTION NO. 2021A-1

BE IT RESOLVED BY THE  
SOUTH DAKOTA RAILROAD AUTHORITY

WHEREAS, the South Dakota Railroad Authority conveyed a segment of the Mitchell to Chamberlain railroad line and a segment of the Chamberlain to Kadoka railroad line by Quit Claim Deed, dated June 9, 1982, and filed for record on June 16, 1982, in Microfilm No. 82-291 in the Office of the Register of Deeds of Brule County, South Dakota; and

WHEREAS, said deed contains an erroneous reference to the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 103 North, Range 67 West of the 5<sup>th</sup> P.M., which should be corrected to the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section; and

WHEREAS, said deed should be corrected to include a reference to that certain Right-of-Way and Track map designated V.S.D. 20/1; and

WHEREAS, pursuant to 1996 S.D. Sess. L. ch. 20 §§ 4 and 11, the Division of Railroads for the State of South Dakota is now known as the State of South Dakota, acting by and through its Department of Transportation.

NOW THEREFORE, the South Dakota Railroad Authority hereby authorizes and directs Jerry Cope, acting in his capacity as the duly authorized Chairman of the Authority and not as an individual, pursuant to SDCL 49-16B-43, to forthwith and without charge, execute a Corrective Quit Claim Deed to the State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota) to correct the errors noted above.

Dated this \_\_\_\_ day  
of \_\_\_\_\_, 2021

SOUTH DAKOTA RAILROAD AUTHORITY

By \_\_\_\_\_  
Jerry Cope, Chairman

RESOLUTION NO. 2021A-2

BE IT RESOLVED BY THE  
SOUTH DAKOTA RAILROAD AUTHORITY

WHEREAS, the South Dakota Railroad Authority conveyed a segment of the Mitchell to Chamberlain railroad line by Quit Claim Deed, dated June 9, 1982, and filed for record on July 14, 1982, as Document No. 796 in Book 172 on Page 57 in the Office of the Register of Deeds of Davison County, South Dakota; and

WHEREAS, said deed does not properly identify the terminating point for the rail line as including a portion of Gov. Lot 3 in Section 19, Township 103 North, Range 62 West of the 5<sup>th</sup> P.M., Davison County, South Dakota; and

WHEREAS, said deed contains an erroneous reference to Milepost 412.67 which should be corrected to Milepost 388.95 and an erroneous reference to Railroad Engineer's Survey Station Number 4872+20 which should be corrected to Railroad Engineer's Survey Station Number 3620+71; and

WHEREAS, pursuant to 1996 S.D. Sess. L. ch. 20 §§ 4 and 11, the Division of Railroads for the State of South Dakota is now known as the State of South Dakota, acting by and through its Department of Transportation.

NOW THEREFORE, the South Dakota Railroad Authority hereby authorizes and directs Jerry Cope, acting in his capacity as the duly authorized Chairman of the Authority and not as an individual, pursuant to SDCL 49-16B-43, to forthwith and without charge, execute a Corrective Quit Claim Deed to the State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota) to correct the errors noted above.

Dated this \_\_\_\_ day  
of \_\_\_\_\_, 2021

SOUTH DAKOTA RAILROAD AUTHORITY

By \_\_\_\_\_  
Jerry Cope, Chairman

RESOLUTION NO. 2021A-3

BE IT RESOLVED BY THE  
SOUTH DAKOTA RAILROAD AUTHORITY

WHEREAS, a segment of the Chamberlain to Kadoka railroad line was conveyed by the South Dakota Railroad Authority to the Division of Railroads for the State of South Dakota by Quit Claim Deed, dated June 9, 1982, and filed for record on June 16, 1982, in Microfilm No. 82-345 in the Office of the Register of Deeds of Lyman County, South Dakota; and

WHEREAS, said deed contains an erroneous reference to Gov. Lot 3, Section 17, Township 104 North, Range 71 West of the 5<sup>th</sup> P.M., which should be corrected to Gov. Lot 3, Section 20, Township 104 North, Range 71 West of the 5<sup>th</sup> P.M.; and

WHEREAS, pursuant to 1996 S.D. Sess. L. ch. 20 §§ 4 and 11, the Division of Railroads for the State of South Dakota is now known as the State of South Dakota, acting by and through its Department of Transportation.

NOW THEREFORE, the South Dakota Railroad Authority hereby authorizes and directs Jerry Cope, acting in his capacity as the duly authorized Chairman of the Authority and not as an individual, pursuant to SDCL 49-16B-43, to forthwith and without charge, execute a Corrective Quit Claim Deed to the State of South Dakota, acting by and through its Department of Transportation (formerly known as the Division of Railroads for the State of South Dakota) to correct the error noted above.

Dated this \_\_\_\_ day  
of \_\_\_\_\_, 2021

SOUTH DAKOTA RAILROAD AUTHORITY

By \_\_\_\_\_  
Jerry Cope, Chairman

RESOLUTION NO. 2021A-4

BE IT RESOLVED BY THE  
SOUTH DAKOTA RAILROAD AUTHORITY

WHEREAS, the Chamberlain to Kadoka railroad line segment (the “Line”) was authorized for purchase by the South Dakota Railroad Authority (the “Authority”) pursuant to 1980 S.D. Session Laws Ch. 324, § 1; and

WHEREAS, the purchase and acquisition of the Line by the Authority was a project authorized pursuant to SDCL 49-16B-10 and SDCL 49-16B-13; and

WHEREAS, a segment of the Line that was acquired by the Authority is in Jones County, South Dakota, and is more particularly described as follows:

Commencing at the Lyman and Jones County line at the east line of Section 36, Township 1 South, Range 31 East of the B.H.M., also known as Milepost 496.78, and additionally known as Railroad Engineer’s Survey Station Number 2967+37, and extending in a Westerly direction a distance of approximately 0.035 mile in and through the County of Jones and terminating at the east line of Section 35, Township 1 South, Range 31 East of the B.H.M., also known as Milepost 496.81 and additionally known as Railroad Engineer’s Survey Station Number 2969+26, all of which is more particularly described on that certain Right-of-Way and Track Map designated V.S.D.20/14, which is included herein and made a part hereof by reference (Chamberlain to Kadoka Line);

WHEREAS, the above-described real property has been paid for in full and the Authority has neither made nor caused to be made any mortgage, lien or other encumbrance of whatsoever nature, which is secured by said real property; and

WHEREAS, SDCL 49-16B-43 states in relevant part: “To accomplish projects of the kind listed in § 49-16B-10, the authority shall convey property, without charge, to the Department of Transportation if and when all debts which have been secured by the income from the property have been paid.”

NOW THEREFORE, the South Dakota Railroad Authority hereby authorizes and directs Jerry Cope, acting in his capacity as the duly authorized Chairman of the Authority and not as an individual, pursuant to SDCL 49-16B-43, to forthwith and without charge, execute a Quit Claim Deed conveying the above-described real property to the State of South Dakota, acting by and through its Department of Transportation.

Dated this \_\_\_\_ day  
of \_\_\_\_\_, 2021

SOUTH DAKOTA RAILROAD AUTHORITY

By \_\_\_\_\_  
Jerry Cope, Chairman