

Dear South Dakota Railroad Board,

I, Dan Bilka, a native of Lake County, am the South Dakota Representative for the Rail Passenger's Association, a national rail and transportation advocacy group. Like you, I have a deep love of South Dakota and want to make sure it is well-positioned to thrive in the future.

In the early 1980s, South Dakota had the foresight to purchase rail lines private freight companies had wanted to abandon. Rail-banking preserves railroad rights-of-way for the opportune moment when they can be restored for freight and passenger service. South Dakota's forward-looking rail-banking model is one that the Rail Passengers Association is advocating for the federal surface transportation bill re-authorization.

Unfortunately, the proposed sale of South Dakota's state-owned rail lines will take us back, not forward. I am here today to underscore the consequences of such action and to offer a different vision for revitalizing our rail network.

Even if all these railroad lines remain in service, selling segments to private entities in a piecemeal fashion may incur higher costs by raising access fees or blocking multiple carrier access points to shippers. Under a more plausible scenario, the proposed sale could lead to the abandonment of at least some of these currently-undervalued assets that a private company deems to be unprofitable. As a result, the rail network will become physically disconnected and it will be impossible for trains to serve certain parts of the state.

Once railroad lines are gone, at best they can only be restored at a far greater cost; at worst, they are gone forever. *I think we can all agree that a one-time revenue bump is not worth the much larger ongoing cost of permanently diminishing the state's economic competitiveness and quality of life.* With disconnected rail lines, shipping will become more expensive and hurt business. It will also preclude South Dakota from ever seeing a passenger rail network that we need and deserve, which will impose extraordinary transportation costs on South Dakotans and make it harder to retain home-grown talent.

1967



1990



2011



2017



RAIL PASSENGERS  
ASSOCIATION

## Why are freight and passenger rail lines essential to South Dakota?

Agriculture producers and manufacturers depend on freight railroads to deliver their products to markets cost-effectively. Trains can move a ton of freight over 470 miles on a single gallon of diesel – four times more efficient than trucks and with no wear and tear on our state’s highways. Greater efficiency and less fuel consumption mean lower transportation costs for South Dakotan producers and shippers, which translates into higher take-home income and fewer expenses to maintain our roads. The costs of abandonment of the Cowboy line through northern Nebraska would be a good comparison study.

Fifty years ago, South Dakota lost its last passenger rail connections. Today, we are one of just two states in the Lower 48 without Amtrak. We need only look to our neighbors to see the value of passenger rail and its tremendous return on investment. The Empire Builder, which connects Montana, North Dakota and Minnesota with Seattle and Chicago, is worth \$327 million every year to the economies of the states it serves – over *five times* the cost to operate the train.

Trains also are an affordable travel option. An off-peak, advance-purchase Amtrak ticket from Williston, ND to the Twin Cities costs just \$62; an airline ticket is \$214. Flights from Rapid City to the Twin Cities start at \$199, but unlike North Dakota, we have no train option. The lack of a passenger rail alternative imposes a hidden tax on the mobility of South Dakotans. The expense of ‘windshield time’ is something we all are acutely aware of.

Last week’s winter storm, which shut highways and grounded air travel, further reinforces why passenger rail is so essential to an integrated interconnected transportation network. In 2017, 141 people lost their lives on South Dakota roads. I’ll also remind the group of the plight of Delta Flight 2167 in Sioux Falls a few years ago. Failing to diversify our transportation options beyond highways and airlines imposes immeasurable costs on South Dakotans.

## What must the Railroad Board Do?

I respectfully implore members of the Railroad Board to think strategically about the future of our transportation system and preserve options for future growth. Most critically, it is imperative to do no harm now.

1. *Institute a 180-day Moratorium on the Sale of Any Publicly-Owned Rail Assets:* The public and regional rail authorities need at least 180 days to better understand the consequences of the sale of public rail assets to private entities, including any long-term plans these private entities have for these railroad lines based on their proposals submitted by November 21<sup>st</sup>, 2019.



2. *Protect Rail Lines Against Abandonment:* Contracts must ensure that the new owners and any subsequent owners cannot abandon these lines, or any line segments, in the future. The state must guarantee it will buy back any line at abandonment. While certain segments such as the Sioux Valley line (Sioux Falls-Sioux City) and Wolsey interchange would face less abandonment pressure, others such as the Napa line (to Platte) and MRC line west of Murdo or Kadoka, are more vulnerable. As demonstrated by the benefits of two TIGER grants for track rehabilitation and upgrading, these lines have great potential and could one day form the core of a statewide passenger rail network.
3. *Rail Bank:* Establish a state policy of rail-banking any future abandonments to preserve opportunities for the future.
4. *Explore Alternatives to Sale:* Over the long-term, the State will likely gain more revenue by leasing railroad lines, which generates ongoing revenues, than by selling them, which produces only one-time revenues.
5. *Develop a South Dakota State Passenger Rail Plan:* Develop a passenger rail vision in accordance with Federal Railroad Administration (FRA) directives for State Rail Plans. There is so much potential here in South Dakota to improve mobility, promote tourism and grow the economy, including:
  - A link from Sioux Falls to the Twin Cities, Omaha and Kansas City
  - A cross-state connection from Rapid City to Sioux Falls
  - A link from Rapid City/Black Hills to Cheyenne and Denver

To speak for the Rail Passengers Association at large, we would be happy to contribute to planning and developing the South Dakota Passenger Rail Vision.

States like Utah, Oklahoma and Missouri are investing in passenger rail service because they understand the value of connectivity trains bring. Others, like Montana and North Dakota, continually fight to preserve their Amtrak routes. These states recognize that if they fail to provide adequate passenger rail service and other amenities expected by younger generations, many of their best and brightest will choose to relocate to other states that do.

Often derided as “flyover country”, these states know how important rail connections are to remaining on the map. And unlike South Dakota, none of those states have had the advantage of owning large portions of the rail network, which would have made it much easier to establish and operate service.

Disposing infrastructure is effectively disposing opportunity for the future, both the economic vitality and the human capital that would leverage it. Selling our state-owned rail assets would be a huge mistake for South Dakota. I hope you will agree that we can do better than this. A strong freight and passenger rail network can once again be part of South Dakota’s future.

With that, I conclude my public statement for the record and will take questions from the Rail Board and members of the public.

Dan Bilka  
"Dakota Dan"  
Rail Passengers Association- South Dakota Representative  
12/4/2019

## Kroll, Kari

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**From:** Bergquist, Darin  
**Sent:** Wednesday, November 20, 2019 8:58 AM  
**To:** Kroll, Kari  
**Subject:** FW: [EXT] Proposed South Dakota Rail Sale Rebuttal-

Here is what I believe will be the final version that we'll print out and give to the board members on Dec. 4<sup>th</sup>...thanks!

**From:** Bilka, Daniel James - SDSU Student <daniel.bilka@jacks.sdstate.edu>  
**Sent:** Tuesday, November 19, 2019 11:28 PM  
**To:** Bergquist, Darin <Darin.Bergquist@state.sd.us>  
**Cc:** Hoffman, Becky <Becky.Hoffman@state.sd.us>; Jundt, Joel <Joel.Jundt@state.sd.us>; Dokken, Jack <Jack.Dokken@state.sd.us>  
**Subject:** Re: [EXT] Proposed South Dakota Rail Sale Rebuttal-

Hello Secretary Bergquist!

Many thanks for the response and clarifications about the meetings. I did notice the general meetings on December 4th and 18 respectively but was told by another interested party to the proceedings that there was another public meeting this week. Alas they may have gotten mixed up with the proposals due this Thursday...

Thank you for ensuring the rail board receives this, elaborated, articulation of concerns. I did have contacts with two members at one time but cannot seem to find where I saved them to.

Since you all (and I) are busy, I will keep this (un)characteristically brief, wish you well, and hope to meet you at a future meeting.

Bests,

Dan

Daniel J. (Dan or DJ) Bilka

"Dakota Dan"

*Rail/Transportation/Architecture/Agriculture Activist*

*RPA- South Dakota Representative*

**Masters Architecture Graduate**

South Dakota State University

[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)

[daniel.bilka@sdstate.edu](mailto:daniel.bilka@sdstate.edu)

Cell: (605) 480-2532

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**From:** Bergquist, Darin <[Darin.Bergquist@state.sd.us](mailto:Darin.Bergquist@state.sd.us)>  
**Sent:** Tuesday, November 19, 2019 4:34 PM  
**To:** Bilka, Daniel James - SDSU Student <[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)>  
**Cc:** Hoffman, Becky <[becky.hoffman@state.sd.us](mailto:becky.hoffman@state.sd.us)>; Jundt, Joel <[joel.jundt@state.sd.us](mailto:joel.jundt@state.sd.us)>; Dokken, Jack <[jack.dokken@state.sd.us](mailto:jack.dokken@state.sd.us)>  
**Subject:** RE: Proposed South Dakota Rail Sale Rebuttal-

Mr. Bilka, thank you for your messages sharing your thoughts, concerns and goals related to the potential sale of some or all of the state-owned rail lines in South Dakota...in reading the information you provided, I believe the Department of Transportation and the South Dakota Rail Board share many of the same concerns and goals as you have expressed.

As you recognize, the Rail Board is the decision making body regarding state-owned rail lines. In addition, every decision the Rail Board makes regarding disposal of any state-owned lines is subject to final concurrence by Governor Noem. Therefore, I do not intend to address each of the individual issues you raised as I believe the public meetings of the Rail Board are the proper forum for that discussion.

The Rail Board has not committed to the sale of anything at this point...the process that is ongoing is part of an effort to determine whether return of some or all of these lines to private ownership could be beneficial to all involved and also reduce the use of taxpayer funds for continued support of operations on the lines. I do believe that periodically looking at all options for these rail lines is a proper function and responsibility of the Rail Board.

I will make sure your written comments via email are shared with the Rail Board members at their next meeting. While your written comments will be provided to the Board, I would encourage you to attend and participate in these meetings. If you are not able to attend in person, a call in number will be provided on the agenda for those wishing to appear telephonically.

<https://boardsandcommissions.sd.gov/Meetings.aspx?BoardID=88>

The link above contains the schedule and other information regarding upcoming Rail Board meetings. As you can see, the next meeting of the Rail Board will be December 4<sup>th</sup>. At this meeting the Board will be reviewing all proposals submitted, hearing presentations from the proposers and asking questions of the proposers by the Board. No decision will be made at this meeting – the Board will be focused on gathering any and all relevant information. The Board will

then meet again on December 18<sup>th</sup> at which time they will be making decisions on how the state should best move forward with the state-owned lines. There will be opportunity at both meetings for public comment and input – the Board and Department appreciates hearing this information and input prior to making any recommendations or decisions. When the agenda for each meeting is posted to this site, it will contain information as to how you can call in to the meeting to participate in that manner if you choose.

Thank you again for your messages and your interest in the rail industry in South Dakota.

Sincerely,

Darin Bergquist

Secretary

South Dakota Department of Transportation

**From:** Bilka, Daniel James - SDSU Student <[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)>

**Sent:** Tuesday, November 19, 2019 9:36 AM

**To:** Hoffman, Becky <[Becky.Hoffman@state.sd.us](mailto:Becky.Hoffman@state.sd.us)>

**Cc:** Bergquist, Darin <[Darin.Bergquist@state.sd.us](mailto:Darin.Bergquist@state.sd.us)>

**Subject:** Re: [EXT] Proposed South Dakota Rail Sale Rebuttal-

Good Morning Becky,

While you are probably a bit distracted by the methampheta-memes this morning, I wanted to check in with you on my last email.

Dan

Daniel J. (Dan or DJ) Bilka

"Dakota Dan"

*Rail/Transportation/Architecture/Agriculture Activist*

RPA- South Dakota Representative

**Masters Architecture Graduate**

South Dakota State University

[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)

[daniel.bilka@sdstate.edu](mailto:daniel.bilka@sdstate.edu)

Cell: (605) 480-2532

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**From:** Bilka, Daniel James - SDSU Student <[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)>

**Sent:** Sunday, November 17, 2019 11:21 PM

**To:** Hoffman, Becky <[becky.hoffman@state.sd.us](mailto:becky.hoffman@state.sd.us)>

**Subject:** Re: Proposed South Dakota Rail Sale Rebuttal-

Hello Becky,

Thank you for forwarding this on, I have been waiting for a response from any of the parties besides yourself. I also would ask to be in contact with the South Dakota Rail Board again since they are the decision makers on this matter as far as my understanding goes. If you could also forward these thoughts onto them, I would be appreciative.

**Interest In lines:**

I have been told by railroad representatives that the railroads will approach a public entity if they feel it is in their best to try and purchase a line or ROW. As of the 2014 State Rail Plan, there were none of the railroads had a stated interest in any of them at that time; although, yes, the Sioux Valley line does have high potential. If today railroads now expressed direct interest in various lines, I would be rather happily surprised. If the RCP&E and Dakota Southern were looking at a partnership potential on the MRC line, I would be quite happily surprised and offer my support and resources for the effort (although I do not believe the Pierre-Rapid City line should ever be abandoned or embargoed either).



Pointed Reason of Concern:

My greatest concern with the upcoming proposed sale of lines in South Dakota are that some, even if sold in part, that some sections may be subject to abandonment in the future. A former SDDOT official rather callously stated on the side of the 2014 state rail plan meeting "If someone comes up to us with a pile of money we'll entertain the offer; might as well get some money out of it and let someone else abandon it". This is paraphrased and was not officially recorded in the meeting minutes; a side conversation telling me effectively to "go away". While this person no longer works at the DOT, and one person's words do not necessarily represent the entire department, their words and involvement in the SD 2014 Rail Plan give me concerns about the potential long-term consequences of these actions.

Again to reiterate, I do not believe that right for re-purchase preference goes far enough. If the state is genuine and committed to these railroad lines and their potential for success under private entities, it should have no qualms about including stronger language in the contracts that guarantee's the SDDOT will re-purchase the lines in event the new operator/owner cannot operate it at a profit. As a businessman, I can understand that if continued operation is not in the corporations bottom-line interest, they would want to liquidate the asset. As a private citizen, I also understand the long-term detrimental impacts of the lack of railroad service on the region and that the cost consequences of abandonment far exceed the public investment that may be needed from time to time to keep the line operating.

Means of re-affirmation of South Dakota's Commitment to Transportation Options and future opportunities:

If the South Dakota DOT is approaching this effort with genuine sincerity, and private partners are eager and willing to take on these lines and make improvements; all parties should not have objections to the following points being included.

3 Steps affirming South Dakota Rail Vision:

1. Guarantee in the contracts of sale that no line or line-segment will be abandoned in the future and that the state will re-purchase at abandonment value (or less if the company is inclined to work with the state) and safeguard these assets for the future. If the entities that purchase the lines realize their great latent potential, the state will of course not need to act on this clause; it is an extra but necessary assurance for the public interest.
2. The state should also institute a Rail-banking policy for any future abandonments not previously included in the state portfolio. As South Dakota helped lead with the bankruptcy of the Milwaukee Road, the Rail Passenger's Association is advocating for this policy at a national level. Historical hindsight being just that, hindsight, communities and planning officials are now realizing the limitations of their predecessors decisions. It is costing communities great effort and resources to re-create these

disposed assets decades after abandonment. The Sioux Valley Junction to Watertown line is one that also should have been rail-banked.

3. Finally, as State Rep for the Rail Passenger's Association, I strongly encourage you to include a passenger rail vision in the State Rail Plans (as is requirement of the FRA, if memory serves me right). This was blatantly neglected in the 2014 State Rail Plan even though I point this fact out to the members. Again, the consultants hired by the state, Cambridge Systematics, previously work on Minnesota's state Rail Plan showing passenger rail vision extending into South Dakota (Sioux Falls). Just as the nation did not re-ignite its coffee craze until Starbucks came along, the current (sub-par and skeletal) passenger rail system is not reflective of what the system can and should be.

**Meeting this week:**

I'd like to request a listen-in link or call in link invite (i.e Zoom, go to meeting, etc). in order to participate from afar if my supervisors can permit me the time (if during regular work hours). I have unfortunately expended the last of my vacation this year with Rail Passenger Association efforts. I cannot seem to find the official meeting announcement through [Calendar.sd.gov](http://Calendar.sd.gov) or other searched means.

Again, I'd like to request to be put on the emailing list for SDDOT meetings and projects pertaining to railway and railroad issues. My numerous requests to the officials at that time, even to Sec. Bergquist's secretary in person, fell on deaf ears.

Looking forward to hearing from you,

Dan

Daniel J. (Dan or DJ) Bilka

"Dakota Dan"

*Rail/Transportation/Architecture/Agriculture Activist*

*RPA- South Dakota Representative*

**Masters Architecture Graduate**

South Dakota State University

[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)

[daniel.bilka@sdstate.edu](mailto:daniel.bilka@sdstate.edu)

Cell: (605) 480-2532

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**From:** Hoffman, Becky <[Becky.Hoffman@state.sd.us](mailto:Becky.Hoffman@state.sd.us)>  
**Sent:** Thursday, November 14, 2019 2:39 PM  
**To:** Bilka, Daniel James - SDSU Student <[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)>  
**Subject:** RE: Proposed South Dakota Rail Sale Rebuttal-

Dan,  
I have forwarded your email on to Deputy Secretary Joel Jundt, Jack Dokken from Air, Rail and Transit and Karla Engle our Chief Legal Counsel.

Also, the State will be retaining rights for re-purchase as you elude to in your email. That is under Section 4 of the IFP.

#### **4. Conditions of Sale**

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The following terms and conditions, in whole or in part, are expected to be included in any agreement of sale

- 1 The ability to re-purchase the Lines in an abandonment proceeding or if the purchaser were to discontinue service for any reason.
- 2 Preferred re-purchase rights if a sale is contemplated to another buyer.
- 3 A requirement that any assignee or successor to the purchaser abide by the terms of the sale agreement
- 4 A requirement that the sale of the line be considered "AS IS, WHERE IS", as allowed by law.
- 5 A provision requiring the purchaser to indemnify the Department and hold the Department harmless for any claims related to any acts or omissions after the closing of the sale.
- 6 Provisions requiring the purchaser to fully protect any haulage, trackage and interchange rights that apply to the line as a result of the Department's settlement agreement with BNSF, and to fully comply with any other obligations that apply to the purchaser pursuant to that settlement agreement.
- 7 The Department will retain mineral rights as required by South Dakota law.
- 8 The purchase will be subject to the right of highway authorities to maintain, construct, re-construct, sign, mark and repair all existing public highway crossings.

Thanks,

*Becky Hoffman*

Bid Letting Engineer  
SD Department of Transportation  
(605)773-8386  
[becky.hoffman@state.sd.us](mailto:becky.hoffman@state.sd.us)

**From:** Bilka, Daniel James - SDSU Student <[daniel.bilka@jacks.sdstate.edu](mailto:daniel.bilka@jacks.sdstate.edu)>  
**Sent:** Thursday, November 14, 2019 2:12 PM  
**To:** Hoffman, Becky <[Becky.Hoffman@state.sd.us](mailto:Becky.Hoffman@state.sd.us)>  
**Cc:** Bergquist, Darin <[Darin.Bergquist@state.sd.us](mailto:Darin.Bergquist@state.sd.us)>  
**Subject:** [EXT] Proposed South Dakota Rail Sale Rebuttal-

Becky,

Below is my public statement as State Rep for the Rail Passenger's Association.

In Synopsis, I am gravely concerned what will happen if there are no purchasers for the lines. My involvement with the 2014 State Rail Plan did not give me high hopes these lines would be retained if there are no buyers. There were a number of parties involved that were quite happy to write off and otherwise give up various lines for abandonment, most notably the MRC line west of Murdo or Kadoka; hence my reiteration of the damages wrought by abandonment.

## "The Great South Dakota Rail Robbery!"

The announcement to sell all state-owned railroad assets is dangerous, short-sighted, and fiscally irresponsible. This infrastructure helped establish South Dakota as the state it is today; it is disrespectful to our forebears, and a disservice to our successors, to dispose of these critical resources so carelessly.

The revenue from the sale of these assets pales in comparison to the long-term damage that will be done to our state. The revitalization efforts of the Mitchell to Rapid City (MRC) line, and the positive benefits it has brought the communities along it, highlight the importance of preserving and revitalizing these assets for the benefit of all South Dakotans. The numerous wash-outs experienced on the Pierre to Rapid City (PRC) line underscore the need to preserve the Mitchell to Rapid City line as an alternate route due to no major washouts reported on the MRC line. The PRC line is also plagued by the instability of Pierre Shale soil.

The careless disposal of these resources jeopardizes opportunities for economic growth and innovation in the state. Infrastructure like the railroad lines currently being readied to sell make or break the economic potential of an area. These established infrastructure corridors cannot be re-created today for the little revenue their sales would generate. By disposing these assets, the state is effectively foregoing future economic possibilities and further contributing to the brain drain so evident in this state by discarding the talent that would have the energy, ambition and expertise to rejuvenate them for the benefit of all of us.

Agriculture, our number one economic driver, is heavily dependent upon infrastructure. One of the many benefits of the revitalized Mitchell to Rapid City line is the ability to get grain to market quicker and cheaper. A 2003 Kansas DOT study illustrated the severe economic and social impacts of rural railway abandonments. Increased highway damages compounded by loss of farm income due to increased costs, combined with lost tax revenue, have long-term impacts on the economic vitality of rural regions. One unit train can haul as much as 500 semis; one semi does as much damage as 10,000 passenger vehicles. In a year when agriculture has had to deal with pronounced trade and economic angst, we do not need to exacerbate these hardships.

Tourism, our number two economic driver, also has the potential to benefit from this infrastructure. The attractions of the Black Hills already attract millions of tourists (and their spending) annually; a passenger rail connection would allow many more visitors to see these world-class attractions along with increased tax revenue.

South Dakota once lead the way in futuristic thinking; this proposal is the antithesis of that. This proposal is shortsighted and harmful to both rural and urban South Dakotans. The State DOT should immediately rescind this proposal and think strategically about the future of transportation options in the state.

Dan Bilka

"Dakota Dan"

Rail Passengers Association- South Dakota Representative

SD State 2014 (Honors College Distinction) and 2016 Master's Graduate

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I cannot make the meeting next week due to work commitments, however I do not think these sales should be a rushed decision. If a competent buyer would offer to the state to purchase a line (such as the BNSF did with the core system around 2005) then the state should indeed entertain it.

If the state is to follow through with any proposed sales, ***an explicit clause should be added that prohibits the abandonment of these lines at any time in the future.***

That will help put my mind at ease and ensure these lines cannot be abandoned in the future. The right to re-purchase (as is under federal law) doesn't go far enough to ensure these lines are preserved for the future.

Please let me know if you have any questions.

Daniel J. (Dan or DJ) Bilka

"Dakota Dan"

*Rail/Transportation/Architecture/Agriculture Activist*

*RPA- South Dakota Representative*

**Masters Architecture Graduate**

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[daniel.bilka@sdstate.edu](mailto:daniel.bilka@sdstate.edu)

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