

SOUTH DAKOTA STATE RAILROAD BOARD MEETING MINUTES

July 22, 2020 at 11:00 a.m. CDT

BECKER-HANSEN BUILDING / DOT COMMISSION ROOM
700 EAST BROADWAY AVENUE, PIERRE, SOUTH DAKOTA

MEMBERS PRESENT: Jerry Cope, Chairman
Jeff Burket, Vice-chairman
Greg Carmon, Member

MEMBERS PRESENT

VIA CONFERENCE CALL: Jack Nelson, Member (joined the meeting at 11:06 a.m.)
Jon Kirby, Member
Gary Doering, Member

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

DOT STAFF PRESENT

VIA CONFERENCE CALL: Bonnie Olson

OTHERS PRESENT: Dick Huff; Alex Huff; Scott Van Den Top – D & I Railroad Co. (D&I); Rob
Everist – L.G. Everist; Steve Mousel – L.G. Everist; Heath Haden – Dakota
Southern Railway Company (DSRC); and Dan Kippley – Ellis & Eastern
Company

OTHERS PRESENT

VIA CONFERENCE CALL: Kevin DeRocher; Lynn Deinert – Farmers Elevator of Mount Vernon; Jim
Page – Plankinton Elevator Co. LLC; Chet Edinger; Joe Bosworth; Alan
Assmus; Ross Kieffer – Kieffer Repair & Sales LLC; Rick Hancock –
Hancock Oil & Propane LLC; Ryan Skluzak; Wayne Tupper – City of
Kimball; Russ Hazel – Sioux Valley Regional Railroad Authority (SVRRA);
and Jerry Vest – Genesee & Wyoming, Inc (G&W)

Chairman Jerry Cope 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.

Cope opened the floor to the Board members to disclose potential conflicts of interest and to present requests for waivers pursuant to the South Dakota Codified Law (SDCL) chapters 3 – 23.

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

Karla Engle, Office of Legal Counsel, reminded the Board to submit their annual conflict of interest disclosures before the August meeting for Board consideration.

Cope asked for a motion to approve the June 17, 2020, Board meeting minutes.

A MOTION WAS MADE by Burket and seconded by Carmon to approve the June 17, 2020, meeting minutes. All present voted aye by roll call vote. The motion carried.

Cope opened the floor to public input.

Dan Kippley, on behalf of Ellis & Eastern, updated the Board on the status of the CRISI grant awarded for a project from Brandon, SD to Worthington, MN.

Board member Jack Nelson joined the meeting at 11:06 a.m.

Deputy Secretary Joel Jundt presented the Secretary's Report. Jundt reminded the Board the upcoming deadline for the 2020 Transportation Hall of Honor nomination is July 30, 2020.

Jundt shared that at the August 19th Board meeting that the Board will take action on the excess property sales for the rest of the Mitchell-Rapid City (MRC) rail line. As this is an extensive list, the Board discussed the regularly scheduled time and decided that 11:00 a.m. CDT would still work.

Jundt provided an update to the Board on the status of the negotiations for the sale of the Sioux Valley rail line. Jundt explained that L.G. Everist/D&I Railroad Company will present an updated proposal to the Board based on price negotiations with the Department. At the August meeting, the Board will be asked to discuss and take action on the proposal after hearing public comment on the updated proposal. The Board will be asked to consider three options: (1) the Board may approve the proposal with no contingencies; (2) the Board may approve the proposal with contingencies; or (3) the Board may reject the proposal altogether.

Scott Van Den Top, representative for L.G. Everist/D&I Railroad Company presented the updated proposal to purchase the Sioux Valley rail line.

Jack Dokken, Program Manager of the Office of Air, Rail, and Transit, presented for Board consideration the sale of additional land on the Sioux Valley rail line to Kevin DeRocher. On May 20, 2020, the Board approved the sale of leased property #990 and #991 to the Lessee, Kevin DeRocher. Mr. DeRocher is requesting approval to purchase additional non-leased property abutting his leased area.

A MOTION WAS MADE by Burket and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property abutting the leased property

identified as #990 and #991 to Kevin DeRocher 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 introduced for Board consideration the sale of excess property on the MRC rail line from Mitchell to Pukwana, SD. He explained that if sales are approved, the Department's procedure would be to require each purchaser to obtain an appraisal report and plat for the property and provide that information to the Department. The Department recommends minimum setback standards from the center of the main line track to the property line as follows: 50 feet in rural settings, 25 feet in non-rural or urban settings, and 8.5 feet from a siding.

The Board reviewed purchase requests contained in the list on *Attachment #3* of the agenda packet.

A MOTION WAS MADE by Kirby and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #944 to Farmers Elevator Company of Mount Vernon and sell additional parcels of abutting non-leased property to the same party 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.

A MOTION WAS MADE by Carmon and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as leases #866, #1125, and #1237 to Plankinton Elevator Company LLC and sell additional parcels of abutting non-leased property to the same party, excluding property #17, 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.

A MOTION WAS MADE by Kirby and seconded by Nelson to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1578 to B&H Holding LLC and sell additional parcels of abutting non-leased property to the same party 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.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1624 to Travis Fink. No action was taken.

A MOTION WAS MADE by Burket and seconded by Doering to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as leases #798 and #1281 to Edinger Brothers Partnership and sell additional parcels of abutting non-leased property to the same party 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.

A MOTION WAS MADE by Doering and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1502 to Joe Bosworth and sell additional parcels of abutting non-leased property to the same party 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.

A MOTION WAS MADE by Carmon and seconded by Kirby to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1246 to CHS Inc. and sell additional parcels of abutting non-leased property to the same party 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.

A MOTION WAS MADE by Doering and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1581 to Alan Assmus and sell additional parcels of abutting non-leased property to the same party 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.

A MOTION WAS MADE by Burket and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1586 to Kieffer Repair & Sales LLC and sell additional parcels of abutting non-leased property to the same party 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.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1178 to Jimmy Miller. No action was taken.

A MOTION WAS MADE by Doering and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as leases #1163 and #1301 to Kimball Grain Company 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.

A MOTION WAS MADE by Nelson and seconded by Kirby to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1244 to Hancock Oil & Propane LLC and sell additional parcels of abutting non-leased property to the same party 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.

A MOTION WAS MADE by Carmon and seconded by Burket to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1322 to Valley Spraying Services and sell additional parcels of abutting non-leased property to the same party 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.

A MOTION WAS MADE by Doering and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as lease #1626 to Ryan Skluzak and sell additional parcels of abutting non-leased property to the same party 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.

The Department recommended continuing to lease the state-owned railroad properties identified as lease #1623 and # 1643 to James Swanson. Doering made a motion to sell but then withdrew it. No action was taken.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1642 to Lowell Swanson. No action was taken.

The Department recommended continuing to lease the state-owned railroad property identified as lease #1641 to Louis Brennan. No action was taken.

A MOTION WAS MADE by Burket and seconded by Carmon to authorize the Secretary or his designee to execute all documents necessary to sell the state-owned railroad property currently identified as leases #1402 and 754 to Brule County Cooperative and sell additional parcels of abutting non-leased property to the same party 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 introduced Mayor Wayne Tupper of the City of Kimball to present a request to purchase excess property in the city of Kimball.

A MOTION WAS MADE by Carmon and seconded Burket to authorize the Secretary or his designee to execute all the documents necessary to sell the state-owned railroad property to the City of Kimball subject to the waiver of purchase rights from all owners of abutting lands. The sale of all property shall be at its appraised value as determined by an appraisal deemed acceptable by the Department. All present vote aye by roll call vote. The motion carried.

Dokken, along with Heath Haden from Dakota Southern Railway Company, provided an update on the derailment that occurred on the MRC rail line.

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

A MOTION WAS MADE by Burket 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 1:08 p.m. CDT.

Cope called the meeting back into session at 2:15 p.m. CDT.

With no other business to come before the Board, Cope adjourned the meeting at 2:16 p.m.