



SLOVER & LOFTUS LLP
ATTORNEYS AT LAW

December 8, 2021

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VIA ELECTRONIC FILING

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

ENTERED
Office of Proceedings
December 8, 2021
Part of
Public Record

Re: Docket No. FD 31874, South Dakota Railway Company – Notice
of Interim Trail Use and Termination of Modified Rail Certificate

Dear Ms. Brown:

Enclosed for e-filing in the above referenced docket, please find a Record Correction Notice submitted on behalf of the South Dakota State Railroad Board and the State of South Dakota acting by and through its Department of Transportation.

Please contact the undersigned if you have any questions regarding this filing. Thank you for your attention to this matter.

Respectfully submitted,

A. Rebecca Williams

An Attorney for the South Dakota
State Railroad Board and the State of
South Dakota Acting By and Through
Its Department of Transportation

Enclosure

		)	
SOUTH DAKOTA RAILWAY COMPANY –		)	
NOTICE OF INTERIM TRAIL USE AND		)	Finance Docket No. 31874
TERMINATION OF MODIFIED RAIL		)	
CERTIFICATE		)	
		)	

By: Karla L. Engle
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Attorneys for the South Dakota
State Railroad Board and the
State of South Dakota Acting
By and Through Its Department of
Transportation

Dated: December 8, 2021

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

SOUTH DAKOTA RAILWAY COMPANY –	)	
NOTICE OF INTERIM TRAIL USE AND	)	Finance Docket No. 31874
TERMINATION OF MODIFIED RAIL	)	
CERTIFICATE	)	
	)	

RECORD CORRECTION NOTICE

The South Dakota State Railroad Board (“SDRB”) and the State of South Dakota Department of Transportation (“SDDOT”) jointly submit this Record Correction Notice and, in support hereof, state as follows:

1. In their 2007 filings in this docket, SDRB and SDDOT represented to the Surface Transportation Board (“Board”) that the State of South Dakota (“State”) owned the entire Napa-Platte Line right-of-way between MP 0.0 (Napa Junction, SD) and MP 83.3 (Platte, SD), including the right-of-way on the Ravinia-to-Platte Segment (MP 54.5 to MP 83.3) of the Napa-Platte Line, and requested that the Board accept SDRB’s request for a Notice of Interim Trail Use (“NITU”) for the Ravinia-to-Platte Segment. *See* Letter from Judith Payne, Secretary, SDDOT, to Vernon A. Williams, Secretary, Board at 1 (May 15, 2007); Letter from Todd Yeaton, Chairman, SDRB, to Vernon A. Williams, Secretary, Board at 1 (May 15, 2007).

2. In its Decision served in this docket on July 17, 2007, the Board accepted SDRB’s request for an NITU. Decision at 2. SDDOT and the South Dakota Railroad Authority, under the auspices of SDRB, subsequently informed the Board in

2008 that they had entered into an agreement for interim trail use over the Ravinia-to-Platte Segment. *See* Letter from Myles L. Tobin to Anne Quinlan, Acting Secretary, Board (Jan. 11, 2008).

3. Recently, SDDOT undertook a detailed review of the NITU the Board issued in this proceeding. As part of that review, SDDOT discovered that the State had: (i) sold some portions of the Ravinia-to-Platte Segment between MP 80.8 and MP 83.3 to the City of Platte; (ii) sold other portions to private parties; and (iii) retained the remainder of the Segment (though some of the retained portions had been transferred within SDDOT for highway use). All of these sales occurred prior to 2007.

4. Thus, the representations made by SDDOT and SDRB in 2007 that the State owned the entirety of the Napa-Platte Line right-of-way were incorrect. In addition, the State did not retain sufficient interests in some of the parcels it sold to ensure that rail service could be reinstated, as needed, at some future date.

5. SDDOT's review did not discover the reason why SDDOT and SDRB failed to properly describe the State's ownership interests in the right-of-way in their 2007 filings. SDDOT believes that there was a miscommunication (or no communication) at the time between the State representatives in charge of land sales and the State representatives working on the rail banking proposal.

6. SDDOT and SDRB's miscommunications to the Board were inadvertent and have had no practical impact on rail service. No entity has asked to reinstate rail service over any portion of the Ravinia-to-Platte Segment. In addition, since rail banking is voluntary, SDRB, with SDDOT's consent, is taking appropriate remedial

action by asking the Board to vacate the current NITU as it applies between MP 80.8 and MP 83.3. If the Board grants SDRB's vacation request, the State plans to fully abandon the right-of-way between MP 80.8 and MP 83.3.

7. SDDOT and SDRB appreciate the opportunity to correct the record in this proceeding and apologize for their inadvertent misstatements in 2007 concerning the State's ownership interests in the Napa-Platte Line.

Respectfully submitted,

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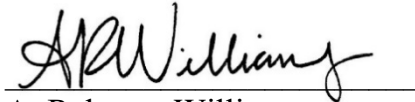


Attorneys for the South Dakota
State Railroad Board and the
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Dated: December 8, 2021

CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of December, 2021, I caused a true and correct copy of the foregoing Record Correction Notice to be served via first-class mail on all parties of record in this proceeding.

A handwritten signature in black ink, appearing to read "AR Williams", written over a horizontal line.

A. Rebecca Williams

An Attorney for the South Dakota
State Railroad Board and the State of
South Dakota Acting By and Through
Its Department of Transportation