

MINUTES

BOARD OF DIRECTORS MEETING OF THE SAN DIEGO & ARIZONA EASTERN RAILWAY COMPANY

July 10, 2012

A meeting of the Board of Directors of the San Diego & Arizona Eastern (SD&AE) Railway Company, a Nevada corporation, was held at 1255 Imperial Avenue, Suite 1000, San Diego, California 92101, on July 10, 2012, at 9:02 a.m.

The following persons, constituting the Board of Directors, were present: Bob Jones and Wayne Terry (alternate for Paul Jablonski). Randy Perry and Paul Jablonski were absent.

Also in attendance were members from:

San Diego Metropolitan Transit System:
San Diego & Imperial Valley Railroad:
Pacific Southwest Railway Museum:
Pacific Imperial Railroad, Inc.:
Carrizo Gorge Railway:
Soitec:
Public:

Tim Allison, Karen Landers, Linda Musengo
Matt Domen
Diana Hyatt
Chas McHaffie, Donald Stoecklein
Sheila LeMire, Randall Polcyn
Sharon Nardoza, Joe Curry
Bob Nickles

1. Approval of Minutes

Mr. Terry moved to approve the Minutes of the April 10, 2012, SD&AE Board of Directors meeting. Mr. Jones seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances

Linda Musengo reviewed the financial statement for the 2nd quarter of 2012 (attached to the agenda item).

Action Taken

Mr. Terry moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

3. Report on San Diego & Imperial Valley Railroad (SD&IV) Operations

Matt Domen reviewed the report of activities for the 2nd quarter (attached to the agenda item).

Action Taken

Mr. Terry moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

4. Report on Pacific Southwest Railway Museum Operations

Diana Hyatt reviewed the 2nd quarter of 2012 report (attached to the agenda item).

Action Taken

Mr. Terry moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

5. Report on the Desert Line

Randall Polcyn of CZRy distributed a report entitled *Desert Line Q2 2012 Summary of Maintenance of Way* (attached). Karen Landers asked if San Diego Gas and Electric (SDG&E) is paying for the damages to SD&AE tracks (shown in the report distributed). Mr. Polcyn responded that PAR Electrical Contractors, Inc. (PAR), a subcontractor of SDG&E, will pay for the repairs. He added that the damage was discovered during a maintenance-of-way inspection by CZRy and that PAR did not report the damage.

Tim Allison inquired about the damage by PAR at Mile Post 129. He stated that PAR is only authorized to work on the right-of-way west of Plaster City, and that PAR has no crossing rights at Mile Post 129. Ms. Landers added that these types of issues should be referred to Tim Allison. SDG&E is legally responsible, and SDG&E contractors and subcontractors cannot cross SD&AE right-of-way if they are not authorized. Ms. Landers instructed CZRy to provide information to MTS regarding the work being done by SDG&E contractors, the damage caused, and other related facts so that MTS can address them with SDG&E. Mr. Polcyn agreed to submit a narrative description of the damage and the location so that staff can initiate a conversation with SDG&E.

Mr. Allison stated that there are a number of unauthorized crossings in the system, and staff makes significant efforts to ensure that crossings are authorized.

Mr. Jones expressed concern that this incident is a liability for SD&AE, and the damage could cause an injury. He stated that in addition to granting crossing rights, SD&AE must have protection against liabilities such as these. Ms. Landers added that it is significant that this damage was never reported.

Mr. Allison referred to another picture in the report, which shows an excavator excavating material at the toe of a slope. He stated that in the past, staff has offered to provide engineering consultants to CZRy to analyze these types of operations to avoid any future issues. Mr. Allison added that no plans were submitted for this project, and he has concerns about the upper side of the slope. He requested that these types of operations be discussed and plans be submitted to him in advance. Mr. Polcyn agreed.

Sheila LeMire reported that there was no revenue from the Desert Line during the second quarter. Ms. LeMire stated that CZRy is working with PIR on marketing and with the Museum and PIR to determine how to best utilize the Desert Line. She added that negotiations are ongoing with the Mexican government, and there have been no reportable injuries.

Action Taken

Mr. Terry moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

6. Real Property Matters**a. Summary of SD&AE Documents Issued Since January 24, 2012**

Tim Allison reported that since the January 24, 2012, SD&AE Railway Company Board of Directors meeting, the documents described below have been processed by staff. He reminded members that there was a problem in April with the agency's database, so he was not able to submit a report for the April SD&AE meeting.

- S200-12-518: Lease to Innovative Cold Storage, Inc. for building use at the San Ysidro Freight Yard.
- S200-12-521: Right of Entry Permit to Navy Region Southwest Morale, Welfare and Recreation Department for the Bay Bridge Run/Walk.
- S200-12-528: Right of Entry Permit to Outdoor Dimensions to install banners at the Grossmont Trolley Station.
- S200-12-529: Right of Entry Permit to the City of La Mesa for the Flag Day Parade.
- S200-12-530: Right of Entry Permit to Hazard Construction, Inc. to construct the COMM 22 project in the City of San Diego.
- S200-12-513: Right of Entry Permit to Peterson Chase General Engineering Construction, Inc. to repair bridge railings at the Grossmont Trolley Station.
- S200-12-532: Right of Entry Permit to Ninyo & Moore to perform field investigations for various SANDAG projects.
- S200-12-534: Construction and Maintenance Agreement to the Ocotillo Express LLC for crossings in the Ocotillo area of the Desert Line.

Action Taken

Mr. Terry moved to receive the report for information. Mr. Jones seconded the motion, and it was unanimously approved.

b. Amended Agreement Between Carrizo Gorge Railway, Inc. (CZRy), SD&AE, San Diego and Imperial Valley (SD&IV) Railroad, and the United States Border Patrol (USBP)

Mr. Allison reported that the United States Border Patrol (USBP) requested continuing its agreement between CZRy, SD&AE, and SD&IV to utilize certain portions of the Desert Line for law enforcement and Border Patrol activities.

Diana Hyatt clarified for Mr. Terry that beginning in 2007, USBP had control of the track and provided the warrants. She added that there have been issues with USBP not cancelling track warrants, being on the line at the same time as the Museum, and also unmanned radio frequencies.

Board members agreed there should be training and protocols for track authorization and release addressed in the new agreement. It was also agreed that there should be a designated representative assigned from each entity, and the Museum should be included in the agreement. Matt Domen will represent SD&IV; Diana Hyatt will represent the Museum; PIR will assign someone soon. Ms. Landers and Mr. Allison will take the lead in reviewing the 2007 agreement and sending comments and edits to the assigned representatives to put together a new draft for Board review and approval.

Action Taken

Mr. Terry moved to approve composing a new draft agreement for Board approval to include protocols for track authorization and release between CZRy, SD&AE, SD&IV, the Museum, and USBP (aka Office of Homeland Security) for the utilization of right-of-way for law enforcement purposes. Mr. Jones seconded the motion, and it was unanimously approved.

c. Tierra del Sol Solar Project Transmission Line

Mr. Allison introduced Sharon Nardoza and Joe Curry of Soitec. Mr. Allison explained that Soitec is requesting a multiuse permit to construct a solar project southwest of HiPass on the Desert Line. Soitec is proposing to bring the energy to the market by running aerial transmission lines utilizing SD&AE right-of-way. Ms. Nardoza clarified that there could be some areas where undergrounding may be needed (which would be addressed in draft negotiations). Mr. Allison stated that the request today is to determine if the Board has any issues with the proposal as Soitec does not want to proceed without assurance of any fatal flaws. Upon Board approval, staff would negotiate a private-use Construction and Maintenance/Operations Agreement with a license that includes a yearly fee and termination clause. Staff would then return to the Board for final approval.

Action Taken

Mr. Terry moved to authorize staff to negotiate with Soitec for a private-use Construction and Maintenance/Operations Agreement with a license that includes a yearly fee and termination clause and then return to the Board for final approval. Mr. Jones seconded the motion, and it was unanimously approved.

7. Board Member Communications

There were no Board member communications.

8. Public Comments

- *Hector M. Gonzalez (Baja California Railway Foundation)* - Mr. Gonzalez stated that he represents a Mexican nonprofit corporation in Tijuana. The Foundation is planning to develop a railway museum in Baja. Mr. Gonzalez is requesting that the SD&AE Board donate a 1916 tank car owned by SD&AE since the 1950s (on the Redondo side—east of Mattenucko and west of Tecate).

Ms. Landers reminded the Board that no action could be taken during public comments; however, staff can be directed to investigate information about this request. Mr. Jones will work with Matt Domen to look into this request and inform the Board of the findings.

- *Randall Polycn* - Mr. Polycn asked who from CZRy or PIR should be reporting Desert Line activities to the SD&AE Board. Ms. Landers responded that PIR is now the operator and should designate an appropriate representative. She added that SD&AE doesn't have a preference of who is assigned as long as the reports are accurate.

Mr. Polycn stated that he heard a rumor that PIR is applying to the Surface Transportation Board (STB) to take over the Desert Line and, he assumes, remove CZRy's operating rights from the Desert Line.

Donald Stoecklein responded that PIR has started the process to apply to the STB, but that doesn't necessarily include terminating the interim operating agreement with CZRy during that process.

9. Next Meeting Date

The next meeting of the SD&AE Railway Company Board of Directors is on October 16, 2012.

The Board convened into Closed Session at 9:38 a.m.

6. Real Property Matters (Taken out of order)

- d. **CLOSED SESSION – CONFERENCE WITH REAL PROPERTY NEGOTIATORS**
Pursuant to California Government Code section 54956.8
Property: MP 86.7, 89.0, and 94.0 over Railroad Street in Jacumba, California
Agency Negotiators: Karen Landers, MTS General Counsel; Tim Allison, Manager of Real Estate Assets; and Paul Jablonski, President and CEO
Negotiating Parties: San Diego Gas and Electric (SDG&E)
Under Negotiation: Price and Terms of Payment


The Board reconvened into Open Session at 9:55 a.m.

Oral Report of Final Actions Taken in Closed Session

Karen Landers, General Counsel, reported that the Board gave direction to staff concerning negotiations with SDG&E regarding easements on various sections of SD&AE right-of-way.

10. Adjournment

The meeting was adjourned at 9:55 a.m.



President



General Counsel

JGardetto/
DRAFT MINUTES SDAE 2012-7-10

Attachment: Desert Line Q2 2012 Summary of Maintenance of Way (submitted during the meeting)

DESERT LINE

Q2 2012 SUMMARY OF MAINTENANCE OF WAY

CONTRACT MAINTENANCE OF WAY PERSONNEL: Eight (8)

CZRY MAINTENANCE OF WAY PERSONNEL: Two (2)

MAINTENANCE OF WAY SUMMARY:

- An inspection of track and right of way between Milepost 93 (Jacumba) and Milepost 129.5 (Plaster City) revealed numerous locations where rock and debris had encroached upon right of way.
- Heavy equipment was employed to clear rock, sand and other debris from the track and right of way allowing for safe clearance of railroad equipment.
- Approximately 60 feet of main line track at Milepost 129 (Plaster City) was repaired and replaced due to damage by construction equipment working on the SDG&E power line during November 2011.
- We are currently working with Cal-Fire (CA Dept. of Forestry) to reinstate the right of way brushing program to establish brush clearances to specifications.
- We are surveying the railroad bridges between Milepost 60 (Division) and Milepost 129.5 (Plaster City) for current condition and repairs needed. Work scope and repair estimates are being developed and prioritized for structures in need of repair.
- Maintenance and repairs are currently underway for the automatic highway crossing signals at Highway 94 (working in conjunction with the San Diego Railroad Museum) and at Highway S-2 in the Imperial Valley near Ocotillo.

DESERT LINE

Q2 2012 SUMMARY OF MAINTENANCE OF WAY

TRACK

Ties Installed (7" x 9" x 9')	35 each
75 lb. yd. rail (33')	3 each
Track spikes (new)	150 each
Angle bars (75 lb.)	12 each
Track bolts	34 each

