

MINUTES

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

January 15, 2013

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 January 15, 2013, at 9:04 a.m.

The following persons, constituting the Board of Directors, were present: Bob Jones, Randy Perry, and Paul Jablonski. Also in attendance were members from:

San Diego Metropolitan Transit System:

Tim Allison, Karen Landers, Wayne Terry,
Linda Musengo

San Diego & Imperial Valley Railroad:

Matt Domen

Pacific Southwest Railway Museum:

Diana Hyatt, Michael Edwards

Pacific Imperial Railroad, Inc.:

Chas McHaffie, Donald Stoecklein

Motor Transport Museum:

Carl Calvert

1. Approval of Minutes

Mr. Jablonski moved to approve the Minutes of the October 16, 2012, SD&AE Railway Board of Directors meeting. Mr. Jones seconded the motion, and it was unanimously approved.

3. Report on San Diego & Imperial Valley Railroad (SD&IV) Operations (taken out of order)

Matt Domen reviewed the report of activities for the 4th quarter of 2012 (attached to the agenda item).

Action Taken

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

4. Report on Pacific Southwest Railway Museum Operations

Diana Hyatt reviewed the 4th quarter of 2012 report (attached to the agenda item).

Action Taken

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

5. Report on the Desert Line

Chas McHaffie and Donald Stoecklein reviewed the 4th quarter of 2012 report (attached to the agenda item). Mr. Stoecklein added that PIR is continuing with its finance plan.

Action Taken

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

6. Real Property Matters

a. Summary of SD&AE Documents Issued Since October 16, 2012

Tim Allison, MTS Manager of Real Estate Assets, submitted the documents described below that have been processed by staff since the October 16, 2012, meeting.

- S200-13-538: Right of Entry Permit to Land Forms Construction for construction of the Lemon Grove Promenade Project.
- S200-13-541: Right of Entry Permit to SECC Corporation to construct fiber facilities at 24th Street in National City.
- S200-13-549: Right of Entry Permit to SCS Timber Resources to perform vegetation abatement at MP 94 on the Desert Line near Jacumba.
- S200-13-550: Right of Entry Permit to R Dugan Construction Inc. to construct storm drainage facilities at 22nd Street, San Diego.
- S200-13-551: Right of Entry Permit to Orion Construction Corporation to construct sidewalk improvements from 65th Street to 68th Street in the Encanto neighborhood in the City of San Diego.
- S200-13-552: Right of Entry Permit to Aguirre Engineering Inc. to perform surveying for various SANDAG capital projects.
- S200-13-553: Right of Entry Permit to Schilling Paradise Corporation to construct various dry utilities at 22nd Street, San Diego.
- S200-13-554: Right of Entry Permit to Malcolm Drilling Company, Inc. to construct shoring at 22nd Street, San Diego.
- S200-13-555: Right of Entry Permit to Shimmick Construction Co., Inc. to construct traction power substations for the Trolley Rehabilitation Project.
- S200-13-557: Right of Entry Permit to AES Property Services to perform graffiti removal maintenance along the orange line in El Cajon.
- S200-13-559: Right of Entry Permit to San Diego Gas and Electric to remove a transformer at the Lemon Grove Trolley Station.
- S200-13-560: Operating Agreement with Pacific Imperial Railroad, Inc. to operate freight on the Desert Line.

Action Taken

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

b. Right of Entry Permit Process Finances

Tim Allison stated that at the last meeting, the Board requested a review of the right of entry process and an analysis of staff time required to process permits. Mr. Allison explained the current process for reimbursable and nonreimbursable staff charges for work related to SD&AE and also examples of situations when fees are waived. He added that MTS Policy No. 50 (Engineering and Construction Cost Recovery) allows for a standard fee of \$500 for staff preparation time, approvals, and processing of the permit only once the other issues are resolved. Mr. Allison also explained the various types of staff support services and how the costs are recovered, including staff time, consultant expenses, and other expenses related to a particular third-party impact. Mr. Allison added that MTS does not have a current method to differentiate the type of staff time charged to SD&AE—all time is handled the same whether it is reimbursable or not—and similarly, there is no method to track individual permits or plan-review actions.

Discussion ensued about the ratio of cost recovery versus staff time. Mr. Allison stated that he feels that the \$500 fee is reasonable, and he is not recommending any changes at this time considering that the other expenses are covered over and above a permit fee if required. Mr. Allison added that the permit fee is a small amount of the overall costs for any third-party impact.

Mr. Jones suggested increasing the existing fee of \$500 to \$750 to stay current with the market and also to avoid having to make an even bigger increase down the road. Board members agreed that MTS Policy No. 50 should be revised by increasing the cost-recovery fee from \$500 to \$750 and to forward a recommendation to the MTS Board of Directors for final approval.

Action Taken

Mr. Jones moved to forward a recommendation to the MTS Board of Directors to revise MTS Policy No. 50 (Engineering and Construction Cost Recovery) to increase the cost-recovery standard fee from \$500 to \$750 to cover staff preparation time, approvals, and processing. Mr. Jablonski seconded the motion, and it was unanimously approved.

c. Motor Transport Museum Request for Spur Track Fee Waiver

Tim Allison explained that in April 2009, the SD&AE Board approved construction of a spur track from the main line into the Motor Transport Museum's (MTM's) facility based on full-cost recovery of all fees from the MTM (for plan review, agreement execution, and construction). Mr. Allison stated that the MTM is now requesting that the SD&AE Board waive those fees. Mr. Allison showed an overhead of the proximity involved and explained the MTM's plans to develop the spur track, inspections and rates, and service to the MTM. Mr. Allison clarified for Mr. Jablonski that the request before the Board today is for a waiver for MTM of all fees and costs to date—and also going forward—related to constructing the spur track.

Mr. Allison introduced Carl Calvert of the MTM.

- Public Speaker – Carl Calvert of the Motor Transport Museum (MTM)

Mr. Calvert explained the history of the Motor Transport Museum's (MTM's) historic site and plans for restoring the spur track for future service to and from the MTM. He stated that the MTM is a small, nonprofit operation and is free to visitors when it is open on the weekends. Mr. Calvert added that the MTM operates on less than \$5,000 per year and has already invested thousands of dollars to update the spur drawings (as required by MTS engineering). At this point, the MTM is only aware of permit fees totaling \$500 and MTS staff engineering costs totaling \$1,000. Mr. Calvert added that the MTM does not know what the additional costs will total going forward.

Chas McHaffie of PIR clarified for Mr. Jablonski that he feels that MTM is doing a great job. Discussion ensued regarding contractors, costs, and the steps necessary to start construction on the spur, which is anticipated to begin this year. Mr. Allison clarified that the MTM's request today is to waive all current fees and/or costs going forward.

Board members agreed to a compromise to waive the current outstanding bill of \$1,000 for staff engineering costs but not future direct costs for outside consultants (to ensure that the work is done correctly). Mr. Jones cautioned the MTM to have all specs reviewed prior to any construction. It was also suggested that qualified engineering experts could donate time in kind to help mitigate expenses—Mr. Jones added that Matt Domen is available to assist the MTM with leads for qualified engineering experts.

Action Taken

Mr. Jablonski moved to: (1) waive the Motor Transport Museum's (MTM's) current fee of \$1,000 connected with plan review and entitlement processing for the spur track, and (2) stipulate that all ongoing direct costs for outside consultant services charged to SD&AE are to be reimbursed by the MTM. Mr. Jones seconded the motion, and it was unanimously approved.

2. Statement of Railway Finances (taken out of order)

Linda Musengo reviewed the financial statement for the 4th quarter of 2012 (attached to the agenda item). Ms. Musengo added that the attachment does not reflect property sold in December for \$660,000, because the property value versus the actual proceeds from the sale still has to be determined.

Action Taken

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

7. Donation of Unused Rail Cars to the Pacific Southwest Railway Museum and the Baja California Railway Foundation or Affiliated Nonprofit Organization

Karen Landers explained that SD&AE received two requests for donations for unused rail and tank cars for their historical value. The first request is from the Pacific Southwest Railway Museum for Box Cars "SDAE 1084" and "SP 116033" that have been sitting for years in MTS's Maintenance of Way trolley yard. The second request is from the Baja California Railway Foundation for the donation of "Tank Car 1025," which was abandoned on the railway in Baja, California about 20 years ago.

Ms. Landers explained that the cars only have scrap value, they are a liability, and MTS, SDTI, and SD&AE have no use for the cars. Ms. Landers clarified that the Museum and the Baja California Railway Foundation have agreed to cover all costs associated with relocating the cars, and that staff will research the proper method for transferring ownership.

Action Taken

Mr. Jablonski moved to donate SD&AE's unused rail and tank cars with historical value to the Pacific Southwest Railway Museum (Box Cars "SDAE 1084" and "SP 116033") and the Baja California Railway Foundation or affiliated nonprofit organizations ("Tank Car 1025"). Mr. Jones seconded the motion, and it was unanimously approved.

8. Extension of Pacific Southwest Railway Museum Operating Agreement

Karen Landers stated that a new agreement has been drafted between Pacific Imperial Railroad, Inc. (PIR), MTS, and Pacific Southwest Railway Museum (Museum) wherein the Museum and PIR have worked out maintenance responsibilities (for passenger-excursion services on a portion of the Desert Line and operation of a museum on the Campo Depot property). Diana Hyatt added that the Museum will be responsible for the maintenance and dispatching of 14 miles of the line. Ms. Hyatt stated that when PIR is ready to run freight, the parties will revisit the responsibilities between the Museum and PIR and come to a mutual agreement.

Mr. Jablonski commented that it is nice to see the good working relationship between PIR and the Museum. He stated that there has to be a clear understanding of the rights and responsibilities on the line between the operators to eliminate ambiguity. Mr. Jablonski added that MTS buses will continue to be stored at the Campo Depot—Mr. Allison clarified that the buses are stored on MTS property. Don Stoecklein informed members that PIR turned over the power bills for the crossings to the Museum until PIR resumes freight, and this responsibility will be memorialized in the new agreement.

Action Taken

Mr. Jones moved to: (1) approve extending the operating agreement between PIR and the Pacific Southwest Railway Museum (PSRM) for passenger-excursion services on a portion of the Desert Line and operation of a museum on the Campo Depot property; and (2) execute such agreement consistent with the terms. Mr. Perry seconded the motion, and it was unanimously approved.

9. Board Member Communications

Mr. Jones announced that Rail America has been acquired by Genesee & Wyoming. He stated that Genesee & Wyoming is a leader in the short line industry, and that it is a pleasure to be acquired by a company with such a bright future. Mr. Jones explained that RailAmerica's property in San Diego and Ventura will now fall under the Mountain West region. Mr. Jones' office will be moving to Salem, Oregon. Mr. Jones introduced Brad Ovitt, Senior Vice President of the Mountain West region, and David Brown, Chief Operating Officer from Jacksonville.

Mr. Jones ensured a smooth transition and added that Matt Domen will continue to be involved in the day-to-day operations. Mr. Jones and Mr. Perry will be stepping back to let Mr. Ovitt and Mr. Domen take over at the next meeting in April. He added that he feels that this group has made a lot of progress and offered his help in any way in the future. Mr. Jablonski thanked Mr. Jones and Mr. Perry for their service on the Board.

10. Public Comments

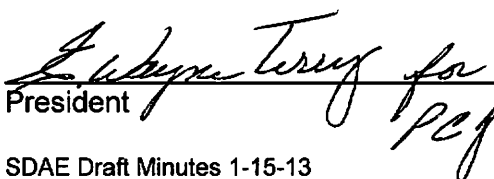
None.

11. Next Meeting Date


The next meeting of the SD&AE Railway Company Board of Directors is on Tuesday, April 16, 2013.

12. Adjournment

The meeting was adjourned at 9:53 a.m.



President



General Counsel

SDAE Draft Minutes 1-15-13

Attachment: Handout - PSRM Letter to Don Stoecklein



Pacific Southwest Railway Museum

La Mesa Depot 4695 Nebo Drive La Mesa, CA 91941 619-465-7776

**Mr. Don Stoecklein
President
Pacific Imperial Rail
c/o Stoecklein Law Firm
401 West A Street, Suite 1150
San Diego, CA 92101**

Re: Our meeting Friday, January 11, 2013

Dear Don:

Please accept this letter as a summary of our meeting held at your office last Friday, January 11, 2013. Those in attendance were: Sheila Lamire, PIR, Don Stoecklein, PIR, Greg Luiz, PSRM Director of Operations, Michael Edwards, PSRM Assistant Director of Operations and myself.

The primary objective for this meeting was to discuss the renewal of PSRM's operating agreement with the Metropolitan Transit System (MTS) and its impact upon the parallel operating agreement between MTS and PIR. This letter is intended to identify the responsibilities and establish the administrative infrastructure with regards to rail operations and traffic control as it pertains to the SDAE railway known as the Desert Line between MP 59.94 and MP 74. It was agreed upon that Pacific Southwest Railway Museum will be identified as the "Host Railroad" and control all rail operations between MP 59.94 and MP 74.0, specifically:

- 1. All rail traffic will be dispatched by PSRM.**
- 2. PSRM will be responsible for training and qualifying dispatchers in accordance with Federal Railroad Administration (FRA) standards including supervision, testing and record keeping.**
- 3. PSRM will establish and maintain all operating rules, policies, timetables, general orders, track bulletins, road frequencies and procedures for all rail traffic operating between MP 59.94 and MP 74.0 in compliance with all FRA and FCC regulations.**
- 4. PSRM will be responsible for maintaining designated track, structures, and right-of-way to Class 2 Federal standards in compliance with all FRA regulations.**
- 5. PSRM will be responsible for vegetation abatement along the right of way and in compliance with Cal-Fire and California PUC requirements.**

6. PIR and PSRM agree that PSRM is unable to assume liability for the grade crossings without maintaining financial responsibility for the public utility service at the two automated grade crossing warning systems located at state highway 94 at the west and east ends of the Campo Valley respectively. PSRM will perform all FRA mandated monthly, quarterly, semi-annual and annual inspections and maintenance and any other inspections and maintenance as necessary.
7. The above points shall not inhibit or restrict PIR's ability to operate freight trains along museum's portion of the Desert Line. PIR freight trains will be dispatched in conjunction with PSRM trains and with minimal delay.
8. This agreement shall remain in effect until such time as it naturally expires or until such time as PIR begins revenue freight rail movement on a consistent basis.

Thank you for your time and attention to this matter. I look forward to a mutually benefitting relationship.

Sincerely,

A handwritten signature in black ink, appearing to read "Diana Hyatt", with a long horizontal flourish extending to the right.

Diana Hyatt
President

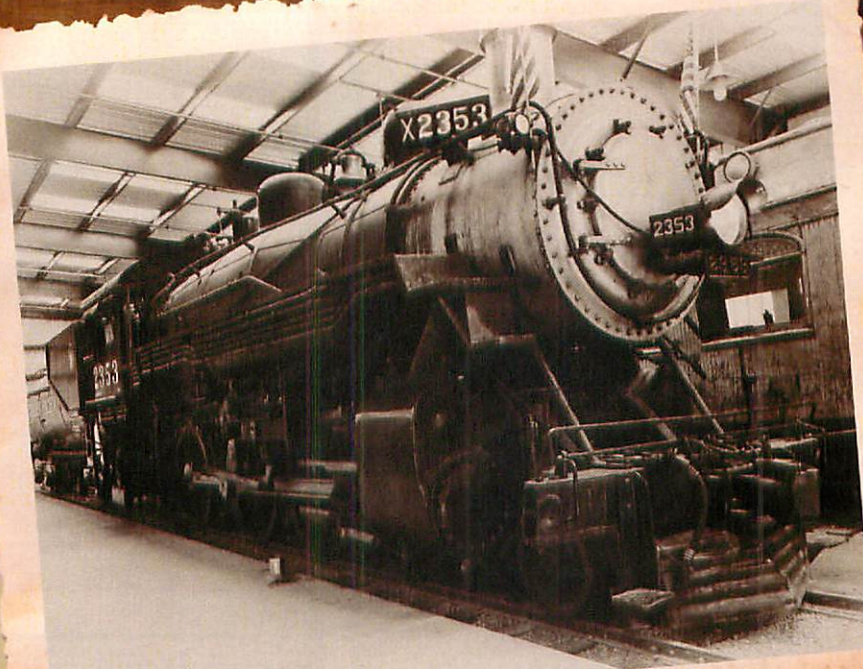


Photo by John Wright

COME AND ENJOY!

CHEFS FIRE UP THE

APRIL 20, 2013



12:00 - 5:00 PM

IRON HORSE

PRESENTED AT

THE CAMPO RAILROAD MUSEUM

The Chefs de Cuisine & The Campo RR Museum are celebrating
over fifty years of service to the San Diego community
together with The Southern California Vintners Alliance

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BEER GARDEN • SILENT AUCTION • LIVE MUSIC**

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Chili, Bar-B-Que Chicken

The "Iron Horse" Oven

Carved Roasted Pig,
and New York Strip Loin

Salads

Caesar Salad
Potato Salad with
Cherry Wood Smoked Bacon

Tropical Fruit Salad
Spring Caprice Salad

Dessert Station

Assorted Cookies
Brownies
Assorted Pies

BEVERAGES

Wine provided by the members of
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Vintners Alliance**

Food prepared by
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your Iron Horse ticket order
or at the Campo Depot on the day of the event.

