



September 15, 2017

Mr. Darin Bergquist, Secretary  
Department of Transportation  
Becker-Hansen Building  
700 East Broadway  
Pierre, South Dakota 57501

Dear Secretary Bergquist:

The Government Operations and Audit Committee has scheduled a meeting for October 5 and 6, 2017, to review various issues involving state government.

The Committee requests that you provide written answers to the following questions by September 28, 2017:

1. Has Dakota Southern reported the storage of hazardous materials to the appropriate fire departments and emergency management organizations?
2. According to the Brule County emergency management office, there were loaded hazmat cars in the Chamberlain rail yard prior to and during the March 2017 MRC Rail Authority meeting, and the cars were discussed at that meeting. Was it Dakota Southern that told you such cars first arrived in May? If not, who?
3. You responded that no party has been given permission to connect a track to the State main line in the vicinity of MP 415.8 (east of Kimball). Should permission have been obtained from the State Rail Board before a connecting track was constructed at this location?
4. You responded that you had no knowledge of a news account about State Rail Board Chairman Todd Yeaton giving consideration to building his own rail car storage facility in Kimball. Has the DOT looked into this subject since your first response to this Committee question? If not, do you intend to do so?
5. Dakota Southern's lease for the MRC line and the Napa-Platte line both require Dakota Southern to keep detailed financial records and to allow the State to examine and copy these records. You indicated DOT reviewed undefined "source documentation" and it was decided an audit could not be conducted. What were the source documents? Have you encountered similar resistance from other railroads that were audited (example D&I)? Do you have documentation from rail users, not Dakota Southern, which states that financial data is not to be released? Are rail users in a position of being allowed to block an audit of an operator of State track?
6. You stated that Dakota Southern's late payment this year was due to a disagreement over what constitutes car storage revenue. Does this involve cars stored on the Napa-Platte line or on the MRC line?
7. You indicated there is currently a disagreement between the DOT and Dakota Southern over revenue from car storage. Is there another railroad, located in another state, which is involved

- in the revenue earned on track belonging to South Dakota? If so, please explain. Why did Dakota Southern decide not to conclude an agreement with the DOT?
8. You stated that to your knowledge, the State has never declined to renew a lease with a regional rail authority until it did so with the Napa-Platte Authority. Why did the State Rail Board recommend this action against the Napa-Platte Authority?
  9. What State fund was used to pay for legal costs associated with the Napa-Platte Authority lease, also involving the federal Surface Transportation Board (involving the Slover & Loftus law firm and the Fletcher & Sippel law firm)? How much has been spent on legal costs associated with this issue?
  10. Did Dakota Southern earn any revenue on the Napa-Platte line during calendar years 2014, 2015, and/or 2016?
  11. When was the Napa-Platte Authority's lease with the State allowed to expire?
  12. What entity currently exists under State law to channel local government and/or matching federal funds for any future project involving the State owned rail line in Bon Homme and Charles Mix Counties?
  13. Does the Napa-Platte Regional Rail Authority still exist as an entity formed by Bon Homme, Charles Mix and Yankton Counties?
  14. Dakota Southern's lease with the MRC Rail Authority, and by extension with the State, contains various obligations including the requirement that Dakota Southern observe and comply with all applicable federal, state and local laws and regulations. If it is determined that Dakota Southern has been operating in violation of law or regulation, will the DOT oppose the MRC Authority taking action to replace the company with another operator?

Please submit your answers to Tim Flannery, Department of Legislative Audit, 427 South Chapelle, Pierre, SD, 57501 by September 28, 2017 so that the information can be sent to all Committee members in advance of the actual meeting date.

If you have any questions, please contact Tim Flannery with the Department of Legislative Audit at 773-3595.

Sincerely,



Senator Deb Peters, Chair  
Government Operations and Audit Committee



Representative Hunhoff, Vice-Chair  
Government Operations and Audit Committee