

SPIRITWOOD ENERGY PARK ASSOCIATION, LLC

Minutes Special Meeting of the Members May 12, 2014

A special meeting of the Members of Spiritwood Energy Park Association, LLC; a North Dakota Limited Liability Company was held at the offices of Jamestown/Stutsman Development Corporation on May 12, 2014, members waived notice.

Gary Riffe called the meeting to order at 3:02 p.m. (CST).

In attendance at the meeting were Gary Riffe, Authorized Member Representative of Jamestown/Stutsman Development Corporation; Al Christianson, Authorized Member Representative of Great River Energy; Joseph Larson, Esq., DeAnn Brunner, Business Development, JSDC. In attendance by conference phone were Chris Rathjen, Authorized Member Representative of Jamestown/Stutsman Development Corporation; Greg Ridderbusch, Authorized Member Representative of Great River Energy; Sandra Broekema, Business Development, SEPA; Rich Garman, Senior Project Manager, SEPA; Connie Ova, Business Manager, SEPA.

Gary Riffe stated SEPA has one item to discuss; to consider the request from Dakota Spirit AgEnergy, LLC (tenant) to add dual commodity unit train capacity at SEPA for its dedicated use by Change Order to Dakota, Missouri Valley and Western Railroad (SEPA's contractor)..

Greg Ridderbusch reviewed the May 5th request memo from Dakota Spirit AgEnergy (DSA) that has prompted this meeting. Rail traffic on class 1 has increased dramatically and BNSF is strongly encouraging DSA to utilize dual commodity unit trains instead of single manifest rail shipments for more economical and timely service. DSA asked DMVW to provide an estimate to add rail to accommodate dual commodity unit train capacity at SEPA. DMVW responded with a cost not to exceed \$2.4 million. DSA is requesting SEPA to evaluate issuing a change order to the original scope to add the required track and switches to allow for dual unit train capacity. DSA will pay the full cost for the dedicated track expansion of up to \$2.4 million and further, DSA will offer a \$300,000 payment for capital in aid of construction.

Gary moved forward with discussion on the request from DSA to SEPA.

The following key questions were discussed:

- Is the additional track that is being proposed to be built dedicated 100% for DSA and will DSA pay for the total cost?
 - o DSA is committing to pay for the additional track as additional "Dedicated Track" for DSA over the term of the incremental loan and DSA is not seeking to share the cost with any future tenant(s).

- What is the timeline for repayment to SEPA?
 - o SEPA has incremental capacity in the approved NDDOT loan which would be amortized over 10 years from the start of construction.
- Is SEPA allowed to spend an additional \$2.4 million?
 - o SEPA has an approved \$5.25 million loan through NDDOT. SEPA planned to use only \$3.01 million, so there is additional loan capacity available through the NDDOT Loan. However, SEPA will need to get member board approval to go above the \$7.5 million original project budget. The additional \$2.4 million would put SEPA above the \$7.5 million approved, so member board approval is required.
- Is SEPA allowed to use a change order in this situation?
 - o State agencies use change orders in order to meet requirements for a project, to make enhancements, to enlarge or to meet other needs of that particular project before it is completed. Change orders are used as needs arise. The contingency that arises here is the changing nature of in the industry and the trend to unit trains instead of single car or manifest shipments. Joe Larson gave the legal opinion that SEPA has the option in this situation to use a change order as it is in the public interest rather than incurring the time and expense of a public re-bid.

The board discussed adding the following language to the proposed 2014-6 Resolution.

In the “whereas” section:

- **Whereas, DSA will pay SEPA the incremental increase in cost to add dual unit train capacity...**
- **Whereas, DSA represented it will make an up-front \$300,000 payment to SEPA to facilitate financing dual unit train capacity.**
- **Whereas, after the additional \$300,000 contribution by DSA, SEPA can add dual unit train capacity without exceeding its current loan authorizations and without any additional capital contribution from its members.**
- **Whereas, SEPA has a total of \$11,640,000 in current loan authorizations and equity.**
- **Whereas, SEPA by Resolution 2014-5 authorized draws on loans and equity up to \$7.5 million for the project and provided that an spending above \$7.5 million would require further SEPA authorization.**
- **Whereas, by motion duly made and unanimously passed, SEPA moved to issue a change order to DMVW to add dual unit train capacity to the Project at a price not to exceed \$2.4 million conditioned on DSA’s authorization of a \$300,000.00 up-front payment to SEPA and to increase to \$9.9 million the spending authorization on the Project.**

In the “resolved” section:

- **Resolved, that the approval is conditioned upon DSA authorizing an additional \$300,000 capital for adding dual unit track capacity.**

- **Resolved, that any spending for this project shall not exceed \$9.9 million unless SEPA hereafter authorized additional draws on approved loans and equity.**

Chris made a motion to approve Resolution 2014-6 as drafted with the amendments as previously discussed that include the additional and amended “Whereas” clauses and the additional “Resolved” clauses. Gary seconded the motion. Roll Call: Greg Ridderbusch: aye; Al Christianson: aye; Gary Riffe: aye; Chris Rathjen: aye. Motion passes unanimously.

Motion to adjourn by Al Christianson, and seconded by Greg Ridderbusch. Motion carries unanimously. Meeting adjourned at 4:01 p.m. (CST)

Respectfully submitted by,
DeAnn Brunner
Business Development, JSDC