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Cynthia Brown
Chief, Section of Administration
Surface Transportation Board
Office of Proceedings
395 E Street, SW
Washington, DC 20423

Re: Docket No. AB 857 (Sub-No. 2X), Colorado Landowners --
Adverse Abandonment – Great Western Railway of Colorado,
LLC in Weld County, Colorado

Dear Ms. Brown:

Great Western Railway of Colorado (“GWRC”) hereby replies in opposition to the Petition For Partial Waiver filed with the Board by certain Colorado Landowners (“Landowners”) on October 15, 2021. GWRC particularly objects to the requested waiver of the environmental and historic filing requirements. The Landowners argue that these filing requirements can be waived because there have been no operational changes on the Welty Branch since 2008 when GWRC filed its environmental and historic reports (“EHRs”). Operational changes, or the lack thereof, are not determinative of whether EHRs need to be prepared and filed in abandonment cases. Under the Landowners’ logic, no EHRs would ever be required in Two-Year-Out-Of-Service abandonment proceedings because, by definition, no operational changes would have occurred for at least two years.

Moreover, under almost identical circumstances, the Board denied a waiver request for the environmental and historic filing requirements. Docket No. AB 1065 (Sub-No 3), Landowners – Adverse Abandonment – Indiana Southwestern Railway Co. in Posey & Vanderburgh Counties, Ind. (not printed), served April 7, 2021 (“ISW”). In ISW, slip op. at 5, the Board concluded that “the information in [the] EA may no longer be current and the environmental and historic impacts of the Landowners’ proposed adverse abandonment may need to be reanalyzed.”

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GWRC also objects to the requested waiver of the Offer of Financial Assistance (“OFA”) regulations. Should the Board grant the proposed adverse abandonment, any bona fide OFA would necessarily negate the approval of the adverse abandonment. Moreover, the Board should not foreclose prospective users of the Welty Branch from seeking to acquire or subsidize continued service on the Welty Branch.

GWRC further objects to the proposed Notice of Intent. The Landowners erroneously state that GWRC has not used the Welty Branch for railroad purposes and that there is no reasonable prospect for such use in the foreseeable future. 49 U.S.C. Section 10102(9)(B) defines rail transportation service to include “storage” and “handling” of property. GWRC intends to demonstrate that it has performed transportation services on the Welty Branch in the not too distant past and that it expects to provide such services in the foreseeable future. See Docket No. AB 1242, Hartwell First United Methodist Church – Adverse Abandonment – The Great Walton Railroad Company, Inc., In Hart County, GA (not printed), served January 31, 2018 (Adverse Abandonment denied because rail line needed to reposition locomotives).

In addition, GWRC objects to the proposed Federal Register Notice (“FRN”), which fails to address the usual provisions governing railbanking. See Docket No. AB 1230, Riverview Trenton R.R. – Adverse Aban. – In Wayne City, Mich (not printed), served April 10, 2015. The proposed FRN also fails to address the usual EHRs and OFA filing requirements.

In light of these significant deficiencies, GWRC respectfully urges the Board to deny the requested waivers.

If you have any questions, please call me.

Sincerely,



Karl Morell

cc: All parties of record