

June 4, 2024

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street S.W.
Washington, D.C. 20423-0001

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Office of Proceedings
June 4, 2024
Part of
Public Record

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stewart@swslegal.com

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

Dear Ms. Brown:

Pursuant to 49 U.S.C. § 10903(d), 49 C.F.R. § 1152.25(c), and 49 C.F.R. § 1152.25(d)(5), the Colorado Landowners respectfully request leave to file out of time the attached letter (“the Letter”) on behalf of the Town of Johnstown, Colorado, in the above-captioned proceeding (attached as Exhibit A). The Letter provides an update on the status of the line at issue in these abandonment proceedings, a 6.2-mile rail line extending from milepost 0.0 in Johnstown to milepost 6.2 near Welty, Colorado (the “Welty Line”), and confirms the Town’s support for a decision from the STB authorizing abandonment of the Welty Line.

Good cause exists to admit the Letter. The Landowners’ Adverse Abandonment Application is considered filed as of October 5, 2022, and the last filing in this proceeding came on January 17, 2023. At the time, in its Protest, Great Western Railway of Colorado (“GWRC”) asserted that it had two shippers ready to use the Welty Line—G4 Energy, LLC and Rocky Mountain Transload—and offered those shippers as evidence of freight traffic in protest of the Landowners’ Application. However, as the Landowners pointed out at the time, there was no real evidence that either shipper had committed to use the Welty Line or were even likely to commit to using the Welty Line in a reasonable time frame, or at all. The Letter demonstrates the Landowners were correct.

The Welty Line has not seen any shippers before or since the Landowners’ Application was filed, and indeed there have not been any shippers on the line for nearly 50 years since the sugar beet industry’s collapse. As the Landowners also demonstrated in their Application, GWRC’s maintenance of the Welty Line, or lack thereof, has also been a constant problem. The Letter confirms that the lack of maintenance is a problem for the Town and that the Welty Line does not benefit rural community and development whatsoever, and in fact hinders it.

Because the Landowners’ Application has been pending before the Board for so long,¹ the Letter provides crucial information regarding the Welty Line’s status and provides the opinion of the Town, an important stakeholder in these

¹ According to the Board’s regulations, a decision on the merits of the Landowners’ Application was due January 23, 2023, 110 days after the Application’s filing. See 49 C.F.R. § 1152.26(a). It has now been 609 days since the Application’s filing, and 499 days since the deadline for the Board’s decision.

proceedings, both of which would certainly aid this Board's determination under § 10903. Accordingly, the Landowners respectfully request that the Board accept for filing and consider the Letter.

Sincerely,



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TSS/hrb

Certificate of Service

I hereby certify that on June 4, 2024, I served the foregoing document, Certificate of Service Letter via electronic mail only upon the following counsel of record:

Non-Party: Matt LeCerf, Town Manager
450 Parish Avenue
Johnstown, CO 80534

Party of Record: Karl Morell
440 1st Street, NW
Suite 440
Washington, DC 20001



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May 24, 2024

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E. Street S.W.
Washington, D.C. 70423-0001

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

Dear Ms. Brown:

This letter is filed on behalf of the Town of Johnstown (“Town” or “Johnstown”), a home rule municipality located in the Counties of Larimer and Weld, State of Colorado, to support Johnstown’s landowners and promote the highest and best use of land within the Town and Weld County. The subject of these proceedings is the “Welty Line,” a 6.2-mile-long stretch of unused railroad right-of-way that begins on the edge of downtown Johnstown, where it connects to the main line and rail yard of the Great Western Railway (“GWRC”), and runs generally southwest and then west, until it stops in the middle of an agricultural field. The Welty Line was historically used to transport sugar beets for a sugar beet dump at the western terminus to the main line rail facilities in Johnstown but has not been used for that purpose for many decades.

The Town is aware that, in October 2022, a group of Weld County landowners who own property adjoining the Welty Line, almost all of whom live in Johnstown, initiated an application in the above-captioned docket requesting that the Surface Transportation Board (“STB”) authorize adverse abandonment of the Welty Line. The Town is also aware the landowners’ adverse abandonment application remains pending, awaiting the STB’s decision on the application’s merits.

This letter advises that the Town strongly urges the STB to find in favor of the landowners and authorize abandonment of the Welty Line. The Welty Line is and has been for many years a community eyesore that GWRC has wholly failed to maintain. Where the line crosses a state highway, the condition of the at grade crossing is so deteriorated that the Town receives weekly complaints from residents. The Town has requested GWRC to make necessary repairs, but they have declined to do so. Conscious complacency and neglect by GWRC of their asset in the Town provides clear evidence that the Welty Line should revert back to the landowners. Furthermore, the Welty Line is not being used for economic benefit for the GWRC, the community, or the region. Aside from a few instances of rail car storage, the Welty Line has not been used as a

The Community that Cares

Exhibit A

railroad since the sugar beet industry dried up more than 45 years ago. The Town has been advised that, in response to the landowners' application, GWRC asserted it was contracting with potential shippers for use of the Welty Line, but the Town has not seen any evidence of shippers either before or since the landowners initiated the application process, has not received a land use application for this purpose, and sees no evidence of prospective shippers. The Welty Line has not benefited Johnstown, its citizens, or the community at large for nearly 50 years and there is no evidence it is primed to do so. In fact, to find an equitable solution, the Town requested that GWRC consider land banking the asset so that the Town could put the property to beneficial use for the community and establish a bike and pedestrian trail. GWRC declined this request without justification. It is long overdue for the land associated with the Welty Line to return to the citizens of Johnstown and Weld County for productive use.

For all these reasons, the Town of Johnstown respectfully requests that the STB find in favor of the landowners and authorize abandonment of the Welty Line.

Respectfully submitted,
TOWN OF JOHNSTOWN



By: Michael Duncan, Mayor

cc: Town Council of the Town of Johnstown
Matt LeCerf, Town Manager