



April 30, 2025

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

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

Dear Ms. Brown:

As the Board is aware, the Colorado Landowners filed this Adverse Abandonment Application—considered filed as of October 5, 2022—to remove an abandoned 6.2-mile rail line extending from milepost 0.0 in Johnstown, Colorado, to milepost 6.2 near Welty, Colorado (the “Welty Line”) from the STB’s jurisdiction. 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 938 days, more than two-and-a-half years, since the Application’s filing, and 828 days since the deadline for the Board’s decision. Although the Landowners recognize the complex nature of the Board’s docket, in any event, the Board’s decision is well past the point of any reasonable delay. Accordingly, the Landowners request expedited consideration to resolve these proceedings.

The Landowners will not repeat the Welty Line’s lengthy factual and procedural history here, as they have already outlined that history multiple times through various docket filings,¹ but for purposes of their current request, the Landowners will simply note that the Welty Line remains abandoned in all but formal recognition, just as the Line has remained abandoned since the sole industry the Line served dried up in the late 1970s. Since that time, as the Line’s current operator, Great Western Railway of Colorado (“GWRC”) has repeatedly acknowledged, the Welty Line has not seen a single shipper, and indeed, the Line is stub-ended and incapable of handling overhead traffic.

For the past two-and-a-half years in these proceedings, GWRC has insisted that shippers are ready and willing to use the Line, and yet GWRC has offered no evidence to support that contention, especially considering the ongoing 45-plus years of zero shippers. Even in GWRC’s most recent filing,² GWRC admitted that the two potential shippers identified in GWRC’s Protest (offered to prove the Line’s purportedly imminent return to service) had backed out of negotiations as some indeterminant point since the Landowners filed their Application, and further, GWRC offered no evidence of any additional shipping prospects. Clearly, nothing has changed regarding the Line’s complete lack of shipping prospects dating to the 1970s.

¹ *See* Landowners’ Application; Landowners’ Reply to GRWC’s Protest; Landowners’ Letter dated June 4, 2024, regarding Letter/Comment from City of Johnstown.

² *See* GWRC Renewed Motion to Reject and Reply, filed August 27, 2024, in response to the City of Johnstown’s Letter/Comment updating the Board on the Welty Line’s continued inactivity and related issues.

For years, the Board has had all the information it needs to render a decision on the Landowners' Application. Again, the Landowners understand the nature of the Board's docket, but here, there is no justification for any further delay. In such situations, the Board has promptly issued its decision upon request. See Great Lakes Terminal Railroad, LLC—Acquisition and Operation Exemption—Great Lakes Terminal, LLC, CRRC Sifang America Incorporated, and Chicago Enterprise Center Owners' Association (July 30, 2024 Decision), FD 36764 (Sub-No. 1) (STB served July 31, 2024) (issuing decision 18 days after GLTRR's renewed request for expedited consideration and, citing to both GLTRR's original request and renewed request for expedited consideration, stating "GLTRR's petition adequately addresses the questions raised by the Board and otherwise provides information sufficient to grant its petition.").

Although the Landowners hope that the Board will grant their request and promptly issue a decision, if the Board does not do so, the Landowners will have no choice but to petition the Court of Appeals for the District of Columbia to issue a writ of mandamus compelling the Board to issue its decision. *See In re W. Coal Traffic League*, F.4th 905, 909 (D.C. Cir. 2024) (stating that, pursuant to the All Writs Act, the Circuit has jurisdiction to issue a writ of mandamus to the Board "to compel agency action unreasonably delayed" so long as the Board action sought to be compelled is ultimately reviewable by the Circuit). If the Board has not issued a decision in 60 days, by **June 30, 2025**, then the Landowners will file their petition with the D.C. Circuit.

Two-and-a-half years ago, the Landowners filed their Application, and tendered the associated \$27,200 fee, in reliance on the Board's regulated, efficient schedule governing abandonment proceedings. To date, that regulated schedule has been ignored, and the Welty Line has sat dormant, unproductive, and unusable for both the Landowners and the community of Johnstown, as it has for many decades. To remedy this, the Landowners request the Board's expedited consideration of their Application and issuance of a decision within 60 days.

Sincerely yours,



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COUNSEL FOR COLORADO LANDOWNERS

TSS/hrb

CERTIFICATE OF SERVICE

I hereby certify that on April 30, 2025, I served the foregoing document, Certificate of Service Letter via electronic mail only upon the following counsel of record:

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