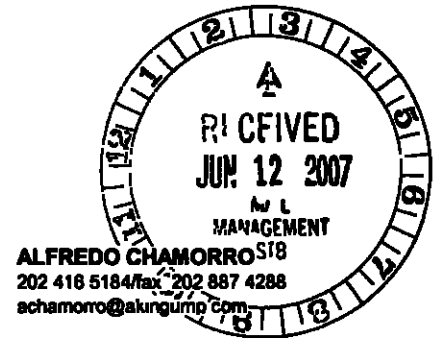


**AKIN GUMP  
STRAUSS HAUER & FELD LLP**

Attorneys at Law



June 12, 2007

VIA HAND DELIVERY

Vernon A. Williams, Secretary  
Surface Transportation Board  
395 E Street, SW  
Washington, DC 20423

219516

Re: STB Docket No. AB-1014

Dear Secretary Williams:

The City of Creede, Colorado filed on June 6, 2007 a Petition for Exemption from certain filing requirements for abandonment applications. The City included as Attachment A to its Petition a draft Notice of Intent. The City there highlighted departures that the City proposed to the Notice of Intent to reflect the fact that the application would be for an adverse abandonment. After the City filed its Petition, the City noticed that the draft Notice mistakenly also highlighted some words in red, which are not departures from the Board's standard form Notice of Intent. To avoid confusion, the City is submitting an original and ten copies of a Corrected Attachment A, which only highlights the departures from the standard form Notice of Intent. Other than removing red highlighting from some words in the Notice, the text of the Corrected Attachment A is the same as the Attachment A originally filed with the City's Petition. The City regrets any confusion.

Sincerely,

*Alfredo Chamorro*

Alfredo Chamorro

Cc: Donald H. Shank

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ATTACHMENT A

DRAFT NOTICE OF INTENT [CORRECTED]

STB Docket No AB-1014

Notice of Intent to Abandon or to Discontinue Service

The City of Creede, Colorado ("City" or "Creede") gives notice that on or July 12, 2007 it intends to file with the Surface Transportation Board, Washington, D C 20423, an application for adverse abandonment of all of the track of the Denver & Rio Grande Railway Historical Foundation ("Foundation") located within the city limits of Creede. This track consists of a main line track approximately one mile in length extending from near mile post 320.9 to near mile post 319.9, a run around track, and a spur track, all in Mineral County, Colorado. The track in question traverses through United States Postal Service ZIP Code 81130. There are no stations on this track, which has been out of service since approximately 1969.

A portion of the track is on a federally issued right-of-way. According to the City, the land under the right-of-way in the city limits was deeded to the City by the United States government in 1902, subject to the pre-existing right-of-way.

The reason for the proposed abandonment is that the City desires to utilize the land under the track in the city limits in ways that best benefits the public interest. The Foundation and its predecessors have never owned the land under the track in the City, but have only had rights of way issued by the federal government and the Colorado State Land Board. The land under the right of way is owned by the City. However, even though this track has been out of service for many years, the City's ownership is burdened by the railroad rights of way, which continue until abandonment of the track has been approved by the Board. The Foundation acquired this track when it acquired the 21.6 mile "Creede Branch" with an offer of financial assistance approved in STB Docket No AB-33 (Sub-No 132X) in 2000. The City does not believe that the Foundation will ever be able to rehabilitate and restore rail freight service on the Creede Branch. Even in the unlikely event it could, it does not need the track in the city limits to provide freight service. Once the Board lifts its jurisdiction from the track in the city limits, the Foundation's rights of way will be extinguished by operation of state and federal law. The City will then have full use of its land.

The application will include the applicant's entire case for abandonment (case in chief). Any interested person, after the application is filed on July 12, 2007, may file with the Surface Transportation Board written comments concerning the proposed abandonment (or discontinuance) or protests to it. These filings are due 45 days from the date of filing of the application.

If the application is granted, under Board precedent, the Board's jurisdiction will be removed and the track that is the subject of the application will not be subject to offers of financial assistance under 49 U.S.C. 10904, public use conditions under 49 U.S.C. 10905, feeder line under 49 U.S.C. 10907, or interim trail use. Persons who may oppose the abandonment but who do not wish to participate fully in the process by appearing at any oral hearings or by submitting verified statements of witnesses, containing detailed evidence, should file comments. Person opposing the proposed abandonment that do wish to participate actively and fully in the process should file a protest.



~~Deleted:~~ Any documentation in the railroad's possession will be made available promptly to those requesting it.

~~Deleted:~~ This line of railroad has appeared on the system diagram map or included in the narrative in category 1 since (insert date).

~~Deleted:~~ The interest of railroad employees will be protected by (specify the appropriate conditions).

~~Deleted:~~ All interested persons should be aware that following any abandonment of rail service and salvage of the line, the line may be suitable for other public use including interim trail use. Any request for a public use condition under 49 U.S.C. 10905 (§1152.28 of the Board's rules) and any request for a trail use condition under 16 U.S.C. 1247(d) (§1152.29 of the Board's rules) must be also filed within 45 days from the date of filing of the application.

~~Deleted:~~ Persons interested only in seeking public use or trail use conditions should also file comments.

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Protests must contain that party's entire case in opposition (case in chief) including the following

- (1) Protestant's name, address and business
- (2) A statement describing protestant's interest in the proceeding including
  - (i) A description of protestant's use of the line
  - (ii) If protestant does not use the line, information concerning the group or public interest it represents, and
  - (iii) If protestant's interest is limited to the retention of service over a portion of the line, a description of the portion of the line subject to protestant's interest (with milepost designations if available) and evidence showing that the applicant can operate the portion of the line profitably, including an appropriate return on its investment for those operations
- (3) Specific reasons why protestant opposes the application including information regarding protestant's reliance on the involved service [this information must be supported by affidavits of persons with personal knowledge of the fact(s)].
- (4) Any rebuttal of material submitted by applicant

In addition, a commenting party or protestant may provide a statement of position and evidence regarding:

(1) Impact on rural and community development.

Written comments and protests will be considered by the Board in determining what disposition to make of the application. The commenting party or protestant may participate in the proceeding as its interests may appear.

If an oral hearing is desired, the requester must make a request for an oral hearing and provide reasons why an oral hearing is necessary. Oral hearing requests must be filed with the Board no later than 10 days after the application is filed.

Those parties filing protests to the proposed abandonment should be prepared to participate actively either in an oral hearing or through the submission of their entire opposition case in the form of verified statements and arguments at the time they file a protest. Parties seeking information concerning the filing of protests should refer to §1152.25.

Written comments and protests should indicate the proceeding designation STB No. AB-1014 and must be filed with the Secretary, Surface Transportation Board, Washington, DC 20423, no later than 45 days after the date application is filed. Interested persons may file a written comment or protest with the Board to become a party to this abandonment proceeding. A copy of each written comment or protest shall be served upon the representative of the applicant: Ronald M. Johnson, Akin, Gump, Strauss, Hauer & Feld LLP, 1333 New Hampshire Ave., NW, Washington, DC 20036 [(202) 887-4114] and Clyde Dooley, City Manager, City of Creede, P.O. Box 457, Creede, CO 81130 [(719) 658-2276]. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Except as otherwise set forth in part 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. 49 CFR 1104.12(a).

Persons seeking further information concerning abandonment procedures may contact the Surface Transportation Board or refer to the full abandonment regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis.

A copy of the application will be available for public inspection during normal business hours of the City of Creede, 8:00 AM to 5:00 PM, Mountain Standard Time, Monday through

~~Deleted: <#>Intent to offer financial assistance pursuant to 49 U.S.C. 10904, § 44-Environmental impact ¶~~

~~Formatted: Bullets and Numbering~~

~~Deleted: <#>Recommended provisions for protection of the interests of employees ¶  
<#>Suitability of the properties for other public purposes pursuant to 49 U.S.C. 10904 and  
<#>Prospective use of the right-of-way for interim trial use and rail banking under 16 U.S.C. 1247(d) and §1152.29 ¶~~

~~Deleted: A protest may demonstrate that: (1) the protestant filed a feeder line application under 49 U.S.C. 110417; (2) the feeder line application involves any portion of the rail line involved in the abandonment or discontinuance application; (3) the feeder line application was filed prior to the date the abandonment or discontinuance application was filed; and (4) the feeder line application is pending before the Board ¶~~

~~Deleted: including all requests for public use and trial use conditions,~~

~~Deleted: The line sought to be abandoned (or discontinued) will be available for subsidy or sale for continued rail use, if the Board decides to permit the abandonment (or discontinuance), in accordance with applicable laws and regulations (49 U.S.C. 10904 and 49 CFR 1152.27). No subsidy arrangement approved under 49 U.S.C. 110414 shall remain in effect for more than 1 year unless otherwise mutually agreed by the parties (49 U.S.C. 10904(f)(4)(B)). Applicant will promptly provide upon request to each interested party an estimate of the subsidy and minimum purchase price required to keep the line in operation. The carrier's representative to whom inquiries may be made concerning sale or subsidy terms is (insert name and business address) ¶~~

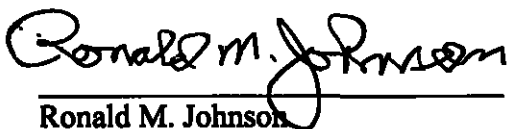
Friday, 2223 North Main Street, Creede, Co 81130, on or after July 12, 2007 The City will furnish a copy to any interested person proposing to file a protest or comment, upon request.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Section of Environmental Analysis will be served upon all parties of record and upon any agencies or other person who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Section of Environmental Analysis. I.As in these abandonment proceedings normally will be made available within 33 days of the filing of the application The deadline for submission of comments on the EA will generally be within 30 days of its service The comments received will be addressed in the Board's decision A supplemental EA or EIS may be issued where appropriate

# 7814482

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of Attachment A [CORRECTED] has been sent via overnight mail to: Donald H. Shank, President, Denver and Rio Grande Railway Historical Foundation, 20 N Broadway St., Monte Vista, CO 81144-1166, this 12<sup>th</sup> day of June 2007.

By: 

Ronald M. Johnson  
Akin, Gump, Strauss, Hauer & Feld, LLP  
1333 New Hampshire Avenue, N.W.  
Washington, DC 20036  
202-887-4114

Counsel for City of Creede, Colorado