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June 19, 2007

By e-filing

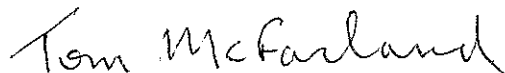
Vernon A. Williams, Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re: Docket No. AB-1014, *Denver & Rio Grande Railway Historical Foundation --
Adverse Abandonment -- in Mineral County, CO*

Dear Mr. Williams:

Hereby transmitted is a Reply In Partial Opposition To Petition For Waiver Of Specified
Abandonment Regulations, for filing with the Board in the above referenced matter.

Very truly yours,



Thomas F. McFarland
*Attorney for Denver & Rio Grande
Historical Foundation*

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BEFORE THE
SURFACE TRANSPORTATION BOARD

DENVER & RIO GRANDE RAILWAY	)	
HISTORICAL FOUNDATION --	)	DOCKET NO.
ADVERSE ABANDONMENT -- IN	)	AB-1014
MINERAL COUNTY, CO	)	

**REPLY IN PARTIAL OPPOSITION TO PETITION FOR
WAIVER OF SPECIFIED ABANDONMENT REGULATIONS**

DENVER & RIO GRANDE RAILWAY
HISTORICAL FOUNDATION
20 North Broadway
Monte Vista, CO 81144

Replicant

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Attorney for Replicant

DUE DATE: June 26, 2007

BEFORE THE
SURFACE TRANSPORTATION BOARD

DENVER & RIO GRANDE RAILWAY	)	
HISTORICAL FOUNDATION --	)	DOCKET NO.
ADVERSE ABANDONMENT -- IN	)	AB-1014
MINERAL COUNTY, CO	)	

**REPLY IN PARTIAL OPPOSITION TO PETITION FOR
WAIVER OF SPECIFIED ABANDONMENT REGULATIONS**

Pursuant to 49 C.F.R. § 1104.13(a), DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION (“the Foundation”) hereby replies in partial opposition to “Petition of the City of Creede for Exemption from Certain Statutory Requirements and Waiver of Related Board Regulations in Connection with Application for Adverse Abandonment” (“Petition”) filed by the City of Creede, Colorado (“the City”) on June 6, 2007.

The Foundation has authority from the Board to provide rail freight transportation over the segment of rail line in Creede, Colorado for which the City will seek involuntary abandonment. The Foundation has successfully resisted several efforts by the City and its allies to displace the Foundation from Creede by means of local zoning and land use laws, and by other means. The Foundation intends to vigorously resist the City’s latest attempt to do so by means of involuntary abandonment.

The lengthy section of the Petition on “Background” (at 2-5) is filled with factual inaccuracies and distortions. This Reply is not the place for rebuttal of that material. The foundation will provide proof to correct the record in due course. The Foundation should not be

viewed as in agreement with any of the allegations in the Petition as a result of refraining from premature rebuttal of that matter.

The Foundation opposes two of the City's waiver requests, i.e.,

- (1) Condition of Properties (Petition at 8); and
- (2) Environmental and Historic Reporting Requirements (*id* at 9).

Condition of Properties

The City is capable of providing evidence of the physical condition of the relatively short stretch of trackage within the city limits. The City is as able as the Foundation to provide an estimate of the extent and cost of rehabilitation required to place that trackage in an operable condition. The City, not the Foundation, has the burden of proof, as well as the burden to go forward with evidence, to establish that public convenience and necessity permit abandonment of the subject trackage over the Foundation's opposition. The physical condition of the trackage and the cost of necessary track rehabilitation are part of the City's burden in that respect.

Environmental Reporting

Contrary to the City's assertion (Petition at 9), it is by no means obvious that involuntary abandonment of the trackage in Creede will have no environmental impact. Involuntary abandonment may lead to removal of trackage, and such removal may well have adverse environmental and/or historic impacts. The rail line itself in Creede may qualify for listing in the National Register of Historic Places. Ground disturbance from track removal can have a negative effect on the quality of the human environment.

The City has correctly observed (Petition at 9) that Board policy is not to waive environmental and historic reporting requirements in involuntary abandonment cases. The Board

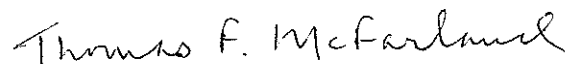
should not make an exception to that policy here. Such an exception is not warranted by virtue of the fact that the Board issued an environmental assessment of abandonment of the Creede Branch when Union Pacific Railroad Company sought an exemption for such abandonment in STB Docket No. AB-33 (Sub-No. 132X) on January 29, 1999. That environmental assessment is obsolete, having been issued 8½ years ago. Moreover, the environmental and historic effects may well differ according to whether Union Pacific would remove the trackage voluntarily or the Foundation would remove the trackage involuntarily.

WHEREFORE, the City's Petition should be denied as to the Board's abandonment regulations on (1) condition of the properties, and (2) environmental and historic reporting requirements.

Respectfully submitted,

DENVER & RIO GRANDE RAILWAY
HISTORICAL FOUNDATION
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Monte Vista, CO 81144

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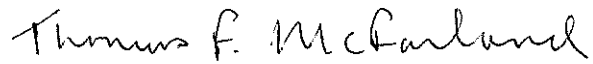
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DUE DATE: June 26, 2007

CERTIFICATE OF SERVICE

I hereby certify that on June 19, 2007, I served the foregoing document, Reply In Partial Opposition To Petition For Waiver Of Specified Abandonment Regulations, on Ronald M. Johnson, Esq. and Alfredo Chamorro, Esq., Akin, Gump, Strauss, Hauer & Feld, LLP, Robert S. Strauss Building, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, by UPS overnight mail.



Thomas F. McFarland