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February 5, 2008

By e-filing

Anne K. Quinlan, Esq.
Acting 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 Ms. Quinlan

This refers to the Protest of Wason Ranch Corporation (Wason) filed in the above proceeding on January 31, 2008.

It is elementary that the Board does not have authority to expand the geographic scope of the adverse abandonment application in this proceeding to encompass the portion of the Creede Branch that is adjacent to Wason's property. (Wason Protest at 2, 5-9). There are extensive statutory and regulatory requirements that must be complied with or be waived before an abandonment can lawfully occur. *See* 49 U.S.C. § 10903 and 49 C.F.R. Part 1152. "An abandonment or discontinuance may be carried out only as authorized under this chapter." 49 U.S.C. § 10903(a) Wason has neither complied with, nor obtained waiver of those requirements.

Contrary to Wason's contention (Protest at 6), there is no well established Board precedent for a grant of abandonment beyond that sought by Creede in its adverse abandonment application

Wason has the statutory standard governing abandonment backwards when it argues (Protest at 5) that there is no probative evidence to show that public convenience and necessity permit or require "continuation of rail service over the line." It must be shown that public convenience and necessity permit or require abandonment before an abandonment can be authorized. In other words, the City of Creede has the burden of proof (which it has not sustained), not the Foundation.

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Accordingly, Wason's request for expansion of the abandonment application is required to be denied.

Respectfully submitted,

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