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July 21, 2022

**VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED &
UPS OVERNIGHT MAIL**

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: STB Docket No. AB-857(Sub No. 2)
Notice of Intent to file an Application for Adverse Abandonment**

Dear Ms. Brown:

Pursuant to 49 C.F.R. § 1152.20(a)(1), 27 Colorado Landowners provide the attached Verified Notice of Intent to file an Application for Adverse Abandonment pertaining to a stub-ended Line that extends between Milepost 0.0 in Johnstown, Colorado to Milepost 6.2 near Welty, Colorado. Pursuant to 49 C.F.R. § 1152.20(b), the Colorado Landowners give notice that the Application for Adverse Abandonment will be filed on or about August 19, 2022.

Sincerely yours,



Thomas S. Stewart

TSS/hrb

cc: Service List included in Notice of Intent





Docket No. AB-857 (Sub-No. 2)

BEFORE THE
SURFACE TRANSPORTATION BOARD
WASHINGTON, D.C. 20423

STB Docket No. AB-857 (Sub-No. 2)

**COLORADO LANDOWNERS – ADVERSE ABANDONMENT –
GREAT WESTERN RAILWAY OF COLORADO, LLC
IN WELD COUNTY, COLORADO**

**VERIFIED NOTICE OF INTENT TO FILE AN APPLICATION
FOR ADVERSE ABANDONMENT**

The Colorado Landowners (“the Applicant”)¹ give notice that on or about August 19, 2022, they intend to file with the Surface Transportation Board, Washington, D.C. 20423, an Application for Adverse Abandonment of a line of railroad that extends between Milepost 0.0 at or near Johnstown, Colorado and the end of the stub-ended Line at Milepost 6.2 at or near Welty, Colorado, which traverses through United States Postal Service ZIP Codes 80534 and 80513, a distance of 6.2 miles, in Weld County, Colorado.

The reason for the proposed abandonment is to obtain a determination that public convenience and necessity require and permit abandonment of the federal interest in the Rail Line. The Colorado Landowners own land adjacent to and within the right-of-way of the subject Rail Line. That land is burdened by easements that permit its use by Great Western Railway of Colorado, LLC (“GWRC”) for railroad purposes. The Landowners claim that the land has not been used for Board-regulated rail transportation for 40 years. The Landowners claim that there is no reasonable

¹ The names and addresses of the 27 Landowners are listed in Appendix 1 attached to this Notice of Intent to File an Application for Adverse Abandonment (the “Landowners”).

prospect for such use in the foreseeable future. A determination by the Board that public convenience and necessity permits and requires abandonment of the Rail Line in those circumstances would extinguish the federal interest in the Line, and pave the way for actions under Colorado law to free the land from the burden of the easements.

Based on information in the Colorado Landowners' possession, the Line does not contain federally granted rights-of-way. Any documentation in the Colorado Landowners' possession will be made available promptly to those requesting it. To the extent that any railroad employees would be adversely affected by this action, their interest would be protected by the conditions imposed in *Oregon Short Line Railroad -Abandonment, Goshen Branch*, 360 I.C.C. 91 (1979).

The application will include the Landowners' entire case for abandonment. Any interested person, after the application is filed on August 19, 2022, may file with the Surface Transportation Board written comments concerning the proposed abandonment or protests to it. These filings are due 45 days from the date of filing of the application. 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 also be filed within 45 days from the date of filing of the application.

Persons who may oppose the abandonment or discontinuance 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. Persons interested only in seeking public use or trail use conditions should also file comments. Persons opposing the proposed abandonment that do wish to participate actively and fully in the process should file a

protest. 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:

- (i) Environmental impact;
- (ii) Impact on rural and community development;
- (iii) Recommend provisions for protection of the interests of employees;
- (iv) Suitability of the properties for other public purpose pursuant to 49 U.S.C. 10905; and
- (v) Prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and §1152.29.

A protest may demonstrate that: (1) the protestant filed a feeder line application under 49 U.S.C. 10907; (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.

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, including all requests for public use and trail use conditions, should indicate the proceeding designation STB No. AB 857 (Sub-No. 2). 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 representatives of the applicant, Thomas F. McFarland, Thomas F. McFarland, P.C., 2230 Marston Lane, Flossmoor, IL 60422-1336, mcfarland@aol.com, and Thomas S. Stewart and Elizabeth G. McCulley, Stewart, Wald & McCulley, 2100 Central Street, Suite 22, Kansas City, MO 64108, stewart@swm.legal, and mcculley@swm.legal. The original and 10 copies of all comments or protests shall be filed with the Board with a certificate of service. Comments or protests need to be notarized or verified, and are required to be filed with the Chief, Section of Administration, Office of Proceedings, Surface Transportation Board (Board), at 395 E Street, S.W., Washington,

DC 20423, together with a certificate of service attesting that copies of the comments or protests have been served on Applicants' counsel in this matter, no later than October 3, 2022.

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by the Office of Environmental Analysis will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Any other persons who would like to obtain a copy of the EA (or EIS) may contact the Office of Environmental Analysis. EAs in these abandonment proceedings normally will be made available within 33 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.

Except as otherwise set forth in 49 C.F.R. § 1152, each document filed with the Board must be served on all parties to the abandonment proceeding. Comments and protests will be considered by the Board in determining what disposition to make of the Application. A commenting party or protestant may participate in the proceeding as its interests may appear.

Persons seeking further information concerning abandonment procedures may contact the Board's Rail Customer and Public Assistance program at (202) 245-0238 or refer to the text of the abandonment regulations at 49 C.F.R. part 1152.

Respectfully submitted,

CINDY SAUER, et al., LANDOWNERS
c/o Stewart, Wald & McCulley
2100 Central Street, Suite 22
Kansas City, MO 64108

Applicants

THOMAS S. STEWART and
ELIZABETH G. McCULLEY
REED W. RIPLEY
STEWART, WALD & McCULLEY
2100 Central Street, Suite 22
Kansas City, MO 64108
(816) 303-1500
stewart@swm.legal
mcculley@swm.legal
ripley@swm.legal

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
2230 Marston Lane
Flossmoor, IL 60422-1336
(708) 704-7679
mcfarland@aol.com

Attorneys for Applicants

DATE FILED: July 21, 2022

CERTIFICATE OF SERVICE

I hereby certify that on July 21, 2022, I served the foregoing document, Application For Adverse Abandonment, by e-mail or first-class, U.S. mail on the following:

Karl Morell
440 1st Street, NW, Suite 440
Washington, DC 20001

Katelyn S. Werner
555 Seventeenth Street, Suite 3400
Denver, CO 80202

The Honorable Jared Polis, Governor of Colorado (certified mail)
State Capital Building
200 E. Colfax Ave., Rm. 136
Denver, CO 80203

U.S. Department of Transportation – Federal Railroad Administration
1200 New Jersey Avenue, SE
Washington, DC 20590

U.S. Department of the Interior
Bureau of Land Management
Colorado State Office
2850 Youngfield Street
Lakewood, CO 80215

Matt LeCerf, Town Manager
City of Johnstown
450 Parish Avenue
Johnstown, CO 80534

Colorado Department of Transportation
2829 W. Howard Pl.
Denver, CO 80204

Tom Parko, Planning Director
Weld County Planning Department
1555 N. 17th Avenue
Greeley, CO 80631

Pamela Fischhaber, Deputy Director
Colorado Public Utilities Commission
1560 Broadway, Suite 250
Denver, CO 80202

Military Surface Deployment and Distribution Command Transportation Engineering Agency
ATTN: SDTE-SA (Railroads for National Defense)
1 Soldier Way, Building 1900W
Scott AFB, IL 62225-5006

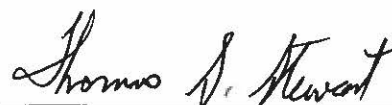
U.S. Department of the Interior
National Park Service
Recreation Resources Assistance Division
1849 C Street NW
Washington, DC 20240

U.S. Department of Agriculture
Chief of Forest Service
Sidney R. Yates, Building
201 14th Street, SW
Washington, DC 20227

National Institute of Food and Agriculture
800 9th Street SW
Washington, D.C. 20024

U.S. Railroad Retirement Board
William O. Lipinski Federal Building
844 North Rush Street
Chicago, IL 60611-1275

Mike Reynolds, Regional Director
Intermountain Region
National Park Service
12795 West Alameda Pkwy
Lakewood, CO 80228



Thomas S. Stewart

VERIFICATION

State of MISSOURI)
) ss.
County of JACKSON)

Thomas S. Stewart makes oath and says that he is the attorney of the Applicant Landowners, applicant herein; that he has been authorized by the Applicant Landowners to verify and file with the Surface Transportation Board the foregoing Notice of Intent to File an Application for Adverse Abandonment in STB AB-857 (Sub-No. 2); that he has carefully examined all of the statements in the Notice of Intent as well as the exhibits attached thereto and made a part thereof; that he has knowledge of the facts and matters relied upon in the Notice of Intent; and that all representations set forth therein are true and correct to the best of his knowledge, information, and belief.

Thomas S. Stewart

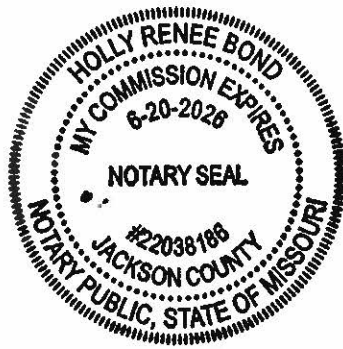
Signature

Subscribed and Sworn to before me this 21st day of July, 2022.

Holly Renee Bond

Notary Public

My Commission Expires: 6/20/26



Property Owner	Spouse-/Additional Owner(s)	Mailing Address	Mailing City	Mailing State	Mailing ZIP
Jack Hodges	Crystal	308 Charlotte Ave.	Johnstown	CO	80534
Brianna Nelson		302 Charlotte St.	Johnstown	CO	80534
Cathy Egger	Mike Kellog	600 Aviara St.	Johnstown	CO	80534
Eleven, LLC, c/o Alex Sauer, Abe Sauer (2 parcels)		P.O. Box 611	Johnstown	CO	80534
Stephen A. Grantham	Karla A.	501 Pebble Beach Ave.	Johnstown	CO	80534
Danielle Blessing (Grauer)		616 Aviara St.	Fort Collins	CO	80534
Ann Weidman		614 Aviara St.	Johnstown	CO	80534
Jimmy L. Larkin	Annette L.	1422 S. Vivian Way	Johnstown	CO	80228
Deanne Gibboney		710 Country Acres Dr.	Johnstown	CO	80534
Calvin Lohnes	Donna Rae	614 Country Acres Dr.	Johnstown	CO	80534
Duane Lowe		618 Aviara St.	Johnstown	CO	80534
7 Parcels, LLC, c/o Lora Mayfield Warren		2125 Bluebell Ave.	Greeley	CO	80631
Connor Vaughn		8540 Benton Street	Arvada	CO	
Michael Horner		608 Aviara St.	Johnstown	CO	80534
Harry C. Peterson	Delores M.	6061 S. Aberdeen St.	Littleton	CO	80120
Aaron J. Sanchez	Jessica R. Aguilar	624 Aviara St.	Johnstown	CO	80534
Sauer Phantom 5 LLC, c/o Cindy Sauer (2 parcels)		6681 CR 50	Johnstown	CO	80534
Sauer West LLC, c/o Cindy Sauer		6681 CR 50	Johnstown	CO	80534
Troy Renner	Avery	606 Aviara St.	Johnstown	CO	80534
RMSJ, LLC, c/o Byron L. Spaur	Mark Spaur Steven Spaur	22605 RD 15	Johnstown	CO	80534
Byron L. Spaur		3801 46 CR	Berthoud	CO	80513
Kelly Bloom		P.O. Box 154	Johnstown	CO	80534
Austin W. Stewart		602 Aviara St.	Johnstown	CO	80534
Suzanne (Tocchini) Fulkrod	k/n/a Suzanne Fulkrod	2906 Falcon View Dr.	Wellington	CO	80549
Amando Valdez (2 parcels)	Anita	314 Charlotte St.	Johnstown	CO	80534
Fred Weis (4 parcels)	Diane K.	15168 CR 7	Mead	CO	80542
Zimmerman Brothers LP (2 parcels)		3041 CR 46	Berthoud	CO	80513

