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SERVICE DATE – APRIL 28, 2009

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. AB-1014

DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION—ADVERSE  
ABANDONMENT—IN MINERAL COUNTY, CO

Decided: April 27, 2009

On December 17, 2007, the City of Creede, CO (the City), filed an application under 49 U.S.C. 10903, requesting that the Surface Transportation Board (Board) authorize the third-party, or adverse, abandonment of approximately 1.0 mile of rail line, extending from near milepost 320.9 to near milepost 319.9, a run-around track, and a spur track, all located in the City limits, in Mineral County, CO. The rail line, which is part of a 21.6-mile rail line known as the Creede Branch, is owned and operated by the Denver & Rio Grande Railway Historical Foundation (D&RGHF). Notice of the application was served and published in the Federal Register on January 4, 2008 (73 FR 930-31).

The Board's Section of Environmental Analysis (SEA), in an Environmental Assessment (EA) served on January 29, 2008, considered the potential environmental impacts of the proposed abandonment and found that it would not significantly affect the quality of the human environment. SEA also found that the Environmental Impact Statement process was unnecessary in this case. In the EA, SEA recommended that two environmental conditions be placed on any decision granting abandonment authority. First, SEA recommended that the City be required to retain its interest in and take no steps to alter the historic integrity of all sites, buildings, and structures within the project right-of-way that are eligible for listing or are listed in the National Register of Historic Places (generally, those 50 years old or older) until the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470f (NHPA) has been completed, to report back to SEA regarding any consultations with the Colorado Office of Archeology and Historical Preservation (SHPO) and any other section 106 consulting parties, and to refrain from commencing salvage activities related to abandonment (including removal of tracks and ties) until completion of the section 106 process and removal of the section 106 historic preservation condition by the Board. Second, SEA recommended that notice be given to the National Geodetic Survey at least 90 days prior to commencement of salvage activities that would disturb or destroy any geodetic station markers.

By decision served on May 23, 2008 (May 2008 decision), the Board granted the City's application for adverse abandonment, adopted SEA's environmental analysis and recommendations, and made the abandonment subject to the two conditions recommended by SEA.

According to SEA, on April 3, 2009, the City submitted to SEA a Memorandum of Agreement (MOA) signed by the City and the SHPO. SEA states that the MOA serves to document sufficiently this portion of the Creede Branch that will be removed with the proposed abandonment and satisfies the City's responsibilities under section 106 of the NHPA. Therefore, based on the information provided, SEA recommends that the section 106 historic preservation condition imposed in the May 2008 decision be removed. Accordingly, the proceeding will be reopened and the previously imposed historic preservation condition will be removed.<sup>1</sup>

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. This proceeding is reopened.
2. Upon reconsideration, the section 106 historic preservation condition imposed in the May 2008 decision is removed.
3. This decision is effective on its service date.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Anne K. Quinlan  
Acting Secretary

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<sup>1</sup> The remaining condition imposed in the May 2008 decision remains in effect, but is self-executing and is not a barrier to consummation by D&RGHF of this abandonment.