

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

232545

ENTERED  
Office of Proceedings  
July 11, 2012  
Part of  
Public Record

**FD 35496**

**PETITION FOR DECLARATORY ORDER**

**DENVER & RIO GRANDE RAILWAY  
HISTORICAL FOUNDATION, INC.  
D/B/A DENVER & RIO GRANDE RAILROAD, LLC**

**JOINT REPLY STATEMENT OF  
THE CITY OF MONTE VISTA, CO,  
AND THE SAN LUIS & RIO GRANDE RAILWAY**

Submitted by

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Dated: July 11, 2012

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**I.  
INTRODUCTION**

Pursuant to an order served by the Surface Transportation Board (“the Board”) on June 6, 2012, Respondents the City of Monte Vista, CO, and the San Luis & Rio Grande Railway (hereinafter jointly “Respondents” or individually “the City” or “Monte Vista” and “SLRG”) respond to Denver & Rio Grande Railway Historical Foundation’s (“DRGRHF’s” or “Petitioner’s”) Petition for Declaratory Order. That request should be denied for the simple reason that Petitioner is not providing common carrier rail transportation for compensation under the applicable law and is therefore not entitled to claim preemption from ordinances promulgated by the City.

II.  
BACKGROUND AND STATEMENT OF FACTS

Some background information is necessary for the Board's understanding of this dispute. This proceeding involves what Petitioner has termed a "Petition for Declaratory Order" filed by DRGRHF,<sup>1</sup> an entity controlled by an individual named Donald Shank ("Shank"). Shank had originally formed DRGRHF in 1999 for the purpose of acquiring and operating a former Union Pacific Railroad Company ("UP") rail line known as the "Creede Branch" between MP 299.3 at Derrick, CO (near South Fork) and MP 320.9, at the line's terminus at Creede, CO.<sup>2</sup> Petitioner seeks through this Petition to shield from the application of the City's zoning ordinances<sup>3</sup> land it controls inside the Monte Vista city limits and uses for the storage and repair of rail cars and related parts. The subject property is located some 30 miles *east* of Petitioner's line between Derrick and Creede and is separated from it by SLRG's line of railroad. A map depicting SLRG and

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<sup>1</sup> Also identified by its dba, Denver & Rio Grande Railroad, L.L.C.

<sup>2</sup> Pursuant to authority granted by the Board in *Union Pacific Railroad Company-Abandonment Exemption-In Rio Grande and Mineral Counties, CO*, Docket No. AB-33 (Sub-No. 132X), STB served May 11, 1999, DRGRHF was authorized to acquire this line through the offer of financial assistance provisions of 49 U.S.C. §10904.

<sup>3</sup> Sec. 12-17-110 forbids the parking or storage of various types of vehicles including railroad cars except in accordance with its terms. Subsection (3) states that railcars may not be stored in any residential, industrial or commercial zone of the City when not connected to a rail line. Subsection (5) states that commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, boats, buses, trailers and similar units shall be considered stored if not moved for seven (7) consecutive days. The text of the entire provision is attached as Exhibit B hereto.

DRGRHF rail lines is attached as Exhibit A with DRGRHF's line shown in pink and SLRG's line shown in yellow.

This property includes a 1.84 acre parcel of land ("the North Parcel") that Petitioner leases from and is owned by its affiliate Rio Grande Southern Company ("Rio Grande"), a nonrailroad entity also controlled by Mr. Shank. Rio Grande acquired this parcel from SLRG in 2005, shortly before that carrier's acquisition by its present owner, Iowa Pacific Holdings, LLC, and its operating subsidiary Permian Basin Railways (hereafter "IPH"). This parcel is one of two under Mr. Shank's control. He also owns in his individual capacity an adjacent second parcel ("the South Parcel") on which is located an old commercial/industrial building that serves as his residence. These two parcels are depicted on a map submitted as Attachment II to the Response and Protest filed by the City and submitted here as Exhibit C.

As relevant here, SLRG is a class III short line railroad common carrier that today owns and operates the eastern continuation of the Creede Branch commonly known as "the Alamosa Subdivision" between the connection with Petitioner's line at Derrick and the UP/BNSF Railway Company interchange at Walsenburg, CO.<sup>4</sup>

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<sup>4</sup> *San Luis & Rio Grande Railroad Company—Acquisition and Operation Exemption—Union Pacific Railroad Company*, FD 34350, STB served July 18, 2003. The entire line between Walsenburg, and Derrick, commonly known as "the Alamosa Subdivision," was formerly owned by the Denver & Rio Grande Western Railway Company which was eventually acquired by UP in a series of railroad merger transactions.

Originally established in 2003 as a subsidiary of short line owner RailAmerica, Inc., IPH purchased the stock of SLRG from RailAmerica in 2006. Prior to SLRG's formation, UP continued to own and operate that line east of Derrick.

SLRG owns and operates the rail line that is adjacent to the subject property. In addition, it owns the spur that traverses the North Parcel.<sup>5</sup> Ownership of that spur and the easement underneath it was specifically reserved by SLRG from the sale of the real estate to Rio Grande.<sup>6</sup> Respondents submit with its response a sworn statement by its General Manager Matthew Abbey describing SLRG's relationship with Petitioner and Petitioner's equipment and facilities.<sup>7</sup>

Monte Vista is a political subdivision with a population of 4529 located in south central Colorado just north of the New Mexico border. The City is located approximately 30 miles *east* of South Fork and nowhere near the "Creede Branch" that Petitioner was authorized by the Board to acquire and operate in 1999.

This dispute dates back to 2008 or 2009 when the City amended its zoning ordinances to prohibit the storage of rail cars on commercial property not connected to an active line of railroad. On November 19, 2010, the City cited Mr.

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<sup>5</sup> See the map depicting the siding and the subject property in Exhibit C.

<sup>6</sup> The deed establishing that SLRG owns a rail service easement and track over this property is attached as Exhibit D. The spur is depicted on the Map submitted as Exhibit C as "Centerline Spur Track ICC No. 15." It is currently disconnected from SLRG's mainline. Abbey V.S. at 1.

<sup>7</sup> Selected pictures of DRGRHF's track and right of way are submitted with Mr. Abbey's statement.

Shank personally with two violations of this zoning law. Specifically, it charged him with storing 28 rail cars on the North Parcel and 4 cars on the South Parcel. The cars were stored either on blocks or sections of track disconnected from the spur. In its ruling, the Monte Vista Municipal Court acquitted Mr. Shank as to the 11 cars stored on the North Parcel as that may have been a legitimate Permitted Use predating the amendment. However, the Court found Mr. Shank guilty as to the 17 cars placed on this parcel after enactment of the amendment and for the placement of 4 cars on the South Parcel adjacent to his residence. Mr. Shank then appealed that ruling to the District Court of Rio Grande County which allowed him to pursue this declaratory relief request and held the appeal in abeyance pending the outcome of the Board proceeding.

Thereafter, Petitioner filed this Petition on July 12, 2011.<sup>8</sup> He alleged that the ordinances in question were enacted after the North Parcel was acquired by Petitioner's affiliate Rio Grande and leased to it. More specifically, he claimed that the City has since "re-zoned the Town" and now includes the parcel owned by its affiliate within its "central business district."

As Respondents understand Petitioner's request for relief, it has sought the Board's opinion as to whether (1) its property is subject to city zoning ordinances and (2) if not, whether the federal law (49 U.S.C. §10501(b)) preempts the

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<sup>8</sup> It appears that the Petition was actually filed on April 28, 2011, but was not treated by the Board as filed until July 12, 2011.

application of the city’s ordinances and “zoning regimen” to this property and/or whether the Commerce Clause of the United States Constitution invalidates the application of these laws to this property. Subsequently, in what would become a virtual “ping pong game” of filings: (1) Monte Vista and SLRG each filed notices of intent to participate in the proceeding and replies to that Petition urging its denial; (2) Petitioner sought leave to file a late response to the Monte Vista and SLRG replies;<sup>9</sup> (3) to which Monte Vista and SLRG individually replied;<sup>10</sup> (4) to which Petitioner in turn submitted a reply;<sup>11</sup> and (5) to which Monte Vista and SLRG filed a Joint Motion to Strike.<sup>12</sup>

On February 22, 2012, the Board issued the first of four procedural decisions in this matter, instituting a declaratory proceeding and setting deadlines for the filing of Petitioner’s opening evidence, Respondents’ replies, and Petitioner’s rebuttal. The Board issued three subsequent decisions extending those deadlines. Pursuant to that schedule Petitioner filed its Opening Statement dated April 9, 2012, but received April 12, 2012, three days late, to which Respondents now reply.<sup>13</sup>

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<sup>9</sup> Filed August 23, 2011.

<sup>10</sup> On September 7 and 19, 2011, respectively.

<sup>11</sup> Dated September 9, 2011, but not received by the Board until October 11, 2011, with supplemental pages submitted October 24, 2011.

<sup>12</sup> Filed October 27, 2011.

<sup>13</sup> By order dated June 6, 2012, the Board extended Respondents’ reply date to July 11, 2012.

### III. ARGUMENT

The issue that this Petition presents is whether an entity licensed by the Board to operate as a common carrier railroad but whose services are limited to operating as an intrastate excursion railroad can claim that the preemption provision of the ICC Termination Act (“the ICCTA”) at 49 U.S.C. §10502(b) shields its activities from the application of state or local laws. Respondents submit the answer is “no” and that Petitioner is not entitled to claim preemption from Monte Vista’s zoning ordinances.

Petitioner wants the Board to believe that its facilities at Monte Vista are protected from the City’s ordinances by reason of the federal preemption that Board-licensed railroad common carriers generally enjoy under the ICCTA. Unfortunately for Petitioner, it cannot avail itself of preemption given the specific facts at issue here.

During the past few years Board and the Courts have had numerous occasions to address the circumstances under which preemption is available to the owner of a rail line.<sup>14</sup> To claim preemption the requesting party must show that the

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<sup>14</sup> See, e.g., *Fla. E. Coast Ry. v. City of W. Palm Beach*, 266 F.3d 1324 (11<sup>th</sup> cir. 2001); *Town of Milford, MA-Petition for Declaratory Order*, FD 34444, STB served Aug. 12, 2004, slip op. at 2 (*Town of Milford*); *New England Transrail, LLC d/b/a Wilmington & Woburn Terminal Railway-Construction, Acquisition And Operation Exemption-In Wilmington and Woburn, MA*, FD 34797, STB served July 10, 2007, slip op. (cited as *New England Transrail*);

activity in question is both “transportation” and “by a rail carrier.” *Town of Milford, MA-Petition for Declaratory Order, supra*, slip op. at 2. As the Board ruled in *Tri-State Brick and Stone-Petition for A Declaratory Order*, FD 34824, STB served Aug. 11, 2006, slip op. at 3,

“[wh]ether a particular activity constitutes transportation by rail carrier under section 10501 is a fact-specific determination. There is no dispute that Tri-State Transportation’s transloading activities come within the broad definition of transportation. *See* 49 U.S.C. 10102(9)(B). However, this is only part of the statutory equation. To be within the Board’s jurisdiction, the transportation activities must be performed by a rail carrier (either directly or under its auspices). A rail carrier is a “person providing common carrier railroad transportation for compensation . . . .” 49 U.S.C. 10102(5).”

Moreover, numerous agency and court decisions hold that the term “transportation” does not include other activities such as manufacturing or commercial activities that are not “integral” to the provision of rail service. *Town of Milford*, slip op. at 2-3; *New England Transrail*, slip op. at 10, footnote 47.

The Board has on occasion held that it will include the revenues from passenger service in a joint freight and passenger operation in determining the viability of a line. *Trinidad Railway, Inc.-Abandonment Exemption-In Las Animas County, CO*, Docket No. AB-573, STB served Aug. 13, 2001, slip op. at 8.

However, Respondents are unaware of any agency decision which treats a purely intrastate excursion passenger service as “transportation” under the ICCTA. In

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*James Riffin-Petition for Declaratory Order*, FD 34997, STB served May 2, 2008, slip op. (cited as *Riffin I*) and *James Riffin-Petition for Declaratory Order*, FD 35245, STB served Sept.15, 2009, slip op. (cited as *Riffin II*).

fact, an intrastate passenger transportation that is not integrated into the national network by means of connection with interstate carriers such as Amtrak is outside the Board's jurisdiction. *Magner-O'Hara Scenic Railway v. ICC*, 692 F.2d 441 (6<sup>th</sup> Cir. 1982); *Fun Trains Inc.-Operation Exemption-Lines of CSX Transportation, Inc., and Florida Department of Transportation*, FD 33472, STB served March 5, 1998 and *Napa Valley Wine Train, Inc. -- Pet. for Declaratory Order*, 7 I.C.C.2d 954 (1991) (the latter case holding that the Board does not have regulatory authority over single-state passenger excursion trains). The mere fact that DRGRHF's line physically connects with the national rail system through the SLRG or that DRGRHF acquired the Creede Branch under the offer of financial assistance provisions of 49 U.S.C. §10904 does not render its tourist-oriented services interstate. *Id.* at 965-8. It stands to reason that a carrier outside the Board's regulatory jurisdiction cannot claim the use of the ICCTA's preemption provisions.

Furthermore the entity seeking the protection of preemption must be a "rail carrier" as that term has been defined in the ICCTA:

"a person providing common carrier railroad transportation for compensation." 49 U.S.C. §10102(5).

Although the ICCTA never defines the term "common carrier," case precedent provides that it is an entity that holds itself out to the general public as engaged in

the business of transporting property from place to place for compensation. *See, New England Transrail, supra*, and cases cited there, slip op. at 11.

Turning now to the facts of this dispute, it is clear that Petitioner does not qualify for federal preemption under 49 U.S.C. §10501(b) because (1) it is not providing “transportation” and it is not acting as a “rail carrier” as those terms are used in the ICCTA.

1. DRGRHF’s Monte Vista facilities are not transportation facilities

Petitioner wants the Board to believe that its facilities at Monte Vista fit the statutory definition in 49 U.S.C. §10102(9). Superficially, they do. DRGRHF is using its leased property as a “yard” for storing and maintaining what would appear to be various types of railroad cars and parts. Some of this equipment is stored on short, disconnected track segments. As best as Respondents can determine, the services performed on those assets could include repair and maintenance as well as storage, all legitimate railroad activities. Moreover, Petitioner claims that it conducts these activities at Monte Vista because it lacks the space to locate a repair and storage facility at any point on the Creede Branch. Petitioner’s Opening Statement at 2.

However, these arguments break down under closer scrutiny. Pictures of the rolling stock stored at Petitioner’s facility indicate that much of this equipment is

historic. Indeed many rail cars appear to be made of wood and even those made of metal are so old as to be incapable of being used interline service with other railroads under Association of American Railroads and Federal Railroad Administration (“FRA”) standards.<sup>15</sup> Abbey VS at 2. Board precedent on “disconnected spurs” does not support its argument that its activities at its Monte Vista facility are entitled to preemption as they “support” its operations on the Creede Branch. Under rulings such as *Suffolk & Southern Rail Road LLC-Lease and Operation Exemption-Sills Road Realty, LLC*,<sup>16</sup> the Board rejected the notion that a carrier could acquire, construct, or operate as an “exempt spur” under 49 U.S.C. §10906 a segment of track located some distance from its line of railroad and not connected to that line by means of trackage or haulage rights. SLRG owns the 30 miles of track separating the Monte Vista facility from the Creede Branch and Petitioner has never sought nor been granted any sort of rights to connect its Monte Vista facility with the Creede Branch. Abbey VS at 1. In order for Petitioner to claim preemption, it would have had to obtain Board approval to operate over the spur track that SLRG owns on the Rio Grande property and would have had to obtain SLRG’s consent to use the track on the Rio Grande property and SLRG’s mainline between Monte Vista and Derrick. It has never done so or sought SLRG’s consent. Abbey VS at 1. Finally, in order for the Board to rule

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<sup>15</sup> Representative pictures of rolling stock are submitted as Exhibit F.

<sup>16</sup> FD 35036, STB served Dec. 20, 2007.

that Petitioner's Monte Vista facilities qualify under the definition of "transportation" under 49 U.S.C. §10102(9), they would have to be used in connection with common carrier rail service.

2. DRGRHF is not a "rail carrier" for the purpose of the Monte Vista facility.

Petitioner bases its assertion that it is a "rail carrier" on the fact that the Board found that it became a "rail carrier" when it acquired the Creede Branch. Petitioner's Opening Statement at 1. While Petitioner may have a "dormant" or "residual" common carrier status by reason of owning a line of railroad subject to Board jurisdiction, it has not conducted itself like a common carrier on the Creede Branch. *Cf., Riffin II, supra*, slip op. at 1, 4-7 (holding that an entity authorized to own a rail line will not be considered a rail carrier if it lacks the ability to provide rail service).

Respondents served Petitioner with discovery seeking evidence about its common carrier activities including the amount of freight or numbers of passengers transported in interstate commerce or as part of the national network, its tariffs, its contractual arrangements for handling interline traffic, and its efforts to solicit freight customers. Information furnished indicates that the *only* traffic handled during the period between 2009 and the present included passengers travelling in maintenance vehicles modified for excursion passenger service such as those

depicted on its website and depicted in Exhibit G and a limited amount of “freight” consisting of rafts transported for passengers engaging in rafting on local rivers.<sup>17</sup> The rail and raft service is sold as a “package” so there are no freight rates on the carriage of rafts. *See*, note 16, on page 14. Additionally, DRGHRF does not have any interchange or haulage agreements in effect with SLRG to give it access to the “outside world” and does not, to the best of SLRG’s knowledge, have any interchange or other commercial arrangements in place with UP for handling traffic with that or other railroads. *Abbey VS* at 1. SLRG is attaching as Exhibit I the only “tariffs” and other marketing literature furnished by DRGRHF in discovery documenting its efforts to solicit freight or passenger traffic. Even the relevant pages of DRGRHF’s Articles of Incorporation furnished in discovery states that the purpose of the corporation is to function as a restoration facility and museum of vintage and historic railroad equipment.<sup>18</sup> These documents clearly indicate that DRGRHF’s business purpose is to operate a museum of historic railroad equipment, a commendable activity but not one entitled to federal preemption.

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<sup>17</sup> In discovery SLRG had asked DRGRHF to identify all traffic movements for the years 2009-2012; however, its answer merely referred to its “Rail and Raft” excursions for the year 2011 and attached information for ticket sales for selected dates in June, July, and August 2011. A copy of SLRG’s discovery request and DRGRHF’s response is attached as Exhibit H.

<sup>18</sup> Submitted here as Exhibit K.

About four years ago, the Board had occasion to review DRGRHF's present and potential traffic and its marketing efforts in the context of its consideration of an "adverse" abandonment application filed against it by the City of Creede, CO, involving one mile of the Creede Branch inside that city's limits.<sup>19</sup> There DRGRHF conceded that there were no current freight operations on the line, given that the line has not yet been restored to an operational condition. After conducting an exhaustive analysis of the freight prospects cited by DRGRHF, the Board concluded

"In sum, there appears to be little, if any, potential for freight rail traffic here....[DRGRHF] has had over 7 years to seek out potential shippers and to rehabilitate its line. [DRGRHF] claims that rehabilitation of the line is nearly complete, but again, it provides no evidence to support this contention.

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Here, it has been 7 years since [DRGRHF's] acquisition, and [DRGRHF] has still not been able to identify a realistic prospect for freight rail service and does not appear to have made much effort to do so. Given the

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<sup>19</sup> *Denver & Rio Grande Railway Historical Foundation-Adverse Abandonment-In Mineral County, CO*, Docket No. AB-1014, STB served May 23, 2008, slip op.

circumstances of this case, 7 years is a sufficient “reasonable period of time” for DRGRHF to have accomplished this end.” Slip op. at 11-2.

The Board added,

“In this case, however, we have determined that there is no realistic prospect for future freight rail service. Thus, D&RGHF’s use of this segment would be primarily if not solely for passenger service, rather than a passenger-freight hybrid, as discussed in *Trinidad Railway*.” Slip op. at 14.

Most recently, in *Norfolk Southern Railway Company-Adverse Abandonment-St. Joseph County, IND*, Docket No. AB 290 (Sub-no. 286), STB served April 17, 2012, slip op. at 3, the Board concluded that four years was sufficient a period to wait for restoration of rail service. In view of the fact that some 13 years have transpired here, the Board can and should conclude that DRGRHF has no plans to initiate common carrier railroad service and is not holding itself out as a common carrier.

Additional evidence of a carrier’s “common carrier status” is its status as an “employer” subject to coverage under the Railroad Retirement Act (“the RRA”) and the companion Railroad Unemployment Insurance Act. The RRA provides that an “employer” for its coverage purposes is either

- (1) “any carrier by railroad subject to the jurisdiction of the Surface Transportation Board... or
- (2) any company which is directly or indirectly owned or controlled by, or under common control with, one or more employers as defined in paragraph (i) of this subdivision, and which operates any equipment or facility or performs any service....in connection with the transportation of passengers or property by railroad.” 45 U.S.C. §§351a and b.

In other words a Board-approved rail carrier is automatically an “employer” under the RRA and a “covered employer” for RRA purposes is a Board-approved rail carrier. B.C.D. 04-22, *Employer Status Determination, H&M International, Inc.*, and *American Orient Express Railway Company, LLC v. Surface Transportation Board*, 484 F.3d 554 (D.C. Cir. 2007). With that in mind, SLRG contacted the Railroad Retirement Board to learn the status of Petitioner and its affiliates. That Board responded that it has no record of Petitioner or its affiliates. *See*, letter from the Railroad Retirement Board identified as Exhibit L. Moreover, there are numerous decisions from that agency holding that an entity whose “railroad activities” are limited to providing intrastate excursion services is not a “covered entity” under the RRA.<sup>20</sup> The fact that Petitioner has not been identified as an “employer” for RRA purposes suggests that it is not holding out its services as an interstate common carrier.

SLRG submits that DRGRHF’s track, facilities, and equipment are not of a type suitable for handling freight or passenger traffic in either interline rail service

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<sup>20</sup> Several representative decisions are attached here as Exhibit M.

or interstate commerce. SLRG contacted the FRA's Washington, D.C., and regional offices to obtain the agency's records on the DRGRHF. The individuals with whom SLRG made contact said the agency had no record of Petitioner.

During the course of his employment, SLRG's Matt Abbey has observed portions of Petitioner's operations, facilities, and equipment. From the documents furnished in discovery he noted that the rail weight was generally 65 lb. and with 90 lb. sections. In his statement he described the railroad's track, structures, and right of way as "weedy, eroded, in need of surfacing, major tie replacement, and heavy bridge repair." Abbey VS at 2. DRGRHF may be in an adequate condition for providing the type of excursion passenger service currently furnished. Nevertheless, he found that this railroad was incapable of handling the type of freight and rolling stock typically handled by short line railroads in interstate commerce, let alone meeting the higher standard for handling today's 286,000 pound rail cars. Furthermore, he concluded that approximately \$5 million would have to be spent on track, bridges, and right of way maintenance to put the line in a minimally acceptable class I condition for handling interstate freight. Abbey VS 2.

A review of the financial statements and tax returns<sup>21</sup> that DRGRHF furnished in discovery indicates that Petitioner lacks sufficient funds to finance that

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<sup>21</sup> Profit and loss statements for 2009 through 2011 and tax returns for 2009 and 2010 are submitted as Exhibit N.

rehabilitation. Moreover, its revenues from operations<sup>22</sup> would barely cover the \$3,000 to \$6,500 per mile that the Board has typically accepted in abandonment proceedings as the annual cost of “normalized” maintenance for FRA class I track. *See, e.g., Penn Railroad, LLC-Abandonment Exemption*, Docket No. AB-1020X, STB served Nov. 18, 2008 (where the Board allowed a \$6500 per mile track maintenance cost) and *Escanaba & Lake Superior Railroad Co.-Abandonment Exemption-In Ontonagon and Houghton Counties, MI*, Docket No. AB-415 (sub-No. 2x), STB served Sept. 27, 2010 (\$3100 per track mile for an under maintained short line railroad).<sup>23</sup> Financial information provided in discovery shows that Petitioner spent a total of \$9,080, \$33,202, and \$26,828, respectively for track maintenance for the years 2009, 2010, and 2011. This maintenance might be adequate for an excursion operation using light weight equipment but it is not

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<sup>22</sup> Profit and loss statements furnished for the years 2009 through 2011 reflect total revenues from operations including charitable contributions ranging from about \$110,000 to about \$185,000. Assuming that normalized maintenance expenses ran an average of \$5,500 per mile per year, the total track maintenance expense for the approximately 20 miles of railroad remaining after the abandonment of the last mile into Creede would run about \$110,000 per year.

<sup>23</sup> In reviewing selected short line railroad abandonments over the years, Respondents found a range in the per mile annual track maintenance costs. *See, e.g. SWKR Operating Co.-Abandonment Exemption in Cochise County, AZ*, Docket No. AB-441 (Sub-No. 2X), STB served Feb. 14, 1997 (\$6,000); *Southeast Kansas Railroad Company-Abandonment Exemption in Montgomery, Labete and Cherokee Counties, KS*, Docket No. AB-470 (Sub-No. 1X), STB served Oct. 10, 1997 (\$3,500); *Minnesota Northern Railroad, Inc.-Abandonment Exemption-In Red Lake and Polk Counties, MN*, Docket No. AB-497 (Sub-No. 1X), STB served Nov. 14, 1997 (\$5,821); and *Minnesota Northern Railroad, Inc.-Abandonment-Between Redland Junction and Fertile, In Polk County, MN*, Docket No. AB-497 (Sub-No. 2X), STB served Nov. 14, 1997 (\$4,864).

acceptable for common carrier freight or passenger service using conventional railroad equipment. By comparison, SLRG spends about \$750,000 to \$1,000,000 per year in track maintenance on the 150 miles of railroad that it owns.

Finally, SLRG has reviewed the roster of equipment that DRGRHF has furnished in discovery. That roster and representative pictures of locomotives and rolling stock are attached here as Exhibits Q and E, respectively. Of the four locomotives depicted on that roster, SLRG notes that only one, a former Southern Pacific General Electric B30-7 3,000hp. road switcher is shown as “operable.” The equipment roster depicts eight cars identified as “passenger and non-revenue” including two cabooses. Only two passenger cars, a round end “observation car” and a post office car described as being built in 1967, are less than 80 years old. Although the roster depicts 8 assorted freight cars, none of these appear to be the types employed today in revenue freight service. In fact Mr. Abbey has observed all of this equipment and reports that “the majority of the DRGRHF’s equipment is unfit for use, is far out of inspection date, and is in many cases disassembled. That equipment which has wheels is unlikely to be moved on its own wheels safely or for any distance.” Abbey VS at 2. Most telling is Mr. Abbey’s statement that he would not be comfortable taking his kids for a ride on DRGRHF’s excursion vehicles. Abbey VS at 2.

While most short line railroads depend heavily on their class I connections for car supply, SLRG is unaware of any cars furnished by UP or other class I railroads to DRGRHF for interline service. These cars would have traversed SLRG's line and Mr. Abbey has no recollection of any "through" DRGRHF freight having moved over it during his employment with SLRG if not before. Abbey VS at 2-3.

Petitioner's preemption claim for its activities at Monte Vista sound very similar to a request that the Board declined several years ago in a series of decisions involving an individual named James Riffin. In the first of several decisions (*"Riffin I"*), Petitioner Riffin sought a declaratory order that activities that he was conducting at one location [Cockeysville, MD] were entitled to preemption as a result of his ownership of a rail line located elsewhere. As the Board will recall, Mr. Riffin had acquired a building in a Baltimore suburban location adjacent to a common carrier line of railroad ["the Cockeysville Line"] for the ostensible purpose of storing and maintaining railroad equipment, parts, and supplies. While Mr. Riffin was attempting to acquire that rail line, he had been authorized to acquire through the offer of financial assistance process of 49 U.S.C. §10904 a rail line at least 100 miles away known as the Allegany Line that CSX Transportation had been authorized to abandon. Anxious to avoid compliance at the Cockeysville facility with state and local environmental and permitting laws,

he sought a ruling from the Board that his activities there were preempted by reason of his ostensible ownership of the Allegany Line.<sup>24</sup>

The Board rejected Riffin's request, stating that to be entitled to preemption from local laws the service must come within the Board's jurisdiction meaning that it must "transportation" as defined in the ICCTA and must be performed by a "rail carrier." *Riffin I, supra*, at 1. Significant to the Board's reasoning in *Riffin I* was the fact that the Cockeysville Line was disconnected from the Allegany Line. In *Riffin II* the Board elaborated on the meaning of the term "rail carrier" stating that it is "a person providing common carrier railroad transportation for compensation." 49 U.S.C. §10102(5). At a minimum, under agency precedent, for an entity to qualify as a rail carrier, it must (1) hold itself out as a common carrier for hire, and (2) have the ability to carry for hire." Slip op. at 5. The Board found that Riffin did not have the ability to provide common carrier service for hire because it determined that Riffin never acquired title to the Allegany Line. Slip op. at 6.

Although no one is challenging DRGRHF's ownership of the Creede Branch, Respondents have identified numerous other reasons why DRGRHF does not have the ability to provide common carrier service and therefore does not qualify for preemption. Suffice it to say that DRGRHF has failed to implement common carrier service during the roughly 13 years it has owned the Creede

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<sup>24</sup> A significant issue in that case was whether Mr. Riffin had in fact acquired an ownership interest in the Allegany Line.

Branch. It has not rehabilitated or maintained that line in a condition to handle common carrier railroad traffic, does not own or possess railroad cars and locomotives in a minimally operable condition capable of handling current traffic needs, does not have any arrangements in place for handling traffic in interstate commerce, is not recognized by the FRA or the Railroad Retirement Board as a common carrier railroad, and has not solicited traffic other than intrastate excursion passenger traffic and related baggage.

IV.  
CONCLUSION

Petitioner's request for a ruling that it need not comply with the zoning ordinances of Monte Vista, CO, should be denied for the simple reason that it is not providing common carrier rail transportation for compensation under the applicable law and is therefore not entitled to claim preemption.

Respectfully submitted,



John D. Heffner  
Strasburger & Price, LLP  
1700 K Street, N.W.  
Suite 640  
Washington, D.C. 20006  
(202) 742-8607

Dated: July 11, 2012

My name is Mathew W Abbey, General Manager of the San Luis and Rio Grande RR, 601 State Ave Alamosa CO 81101.

In this role I am responsible for oversight of the day-to-day operation of the railroad, including freight operations, freight marketing duties, oversight of the passenger excursion service we operate under the name Rio Grande Scenic RR, oversight of the locomotive and passenger car maintenance operations, oversight of track maintenance operations, local human resource responsibilities, employee recruitment hiring and training, regulatory compliance, event management, local public relations, oversight of the company's national reservations center, budgeting, profit and loss analysis, and other duties as assigned by the company. I have held this position for 2.5 years since the time I was hired on January 11, 2010.

In addition to my current experience, I have experience in municipal administration, Cruise Line land / tourism transportation operations, motorcoach safety, training, and compliance, monorail rapid transit operations, marketing, training, safety, and compliance. I am the author of the only recognized Monorail Operator's License, issued through the City of Seattle.

As preparation for this statement, counsel for SLRG has asked me to review the Petition for Declaratory Relief and related documents prepared by the Denver & Rio Grande Railway Historical Foundation and submitted to the Surface Transportation Board. Given my experience, I believe I am qualified to make the following observations.

I am familiar with the operations of the Denver Rio Grande Railroad Historical Foundation (DRGRHF). I have observed their operations and viewed their facilities and equipment.

DRGRHF does not have any interchange agreement, haulage agreement, trackage rights, or any other working agreement known to me with the SLRG.

The DRGRHF has not sought an interchange agreement or other working arrangement with the SLRG during my tenure. To the best of my knowledge, SLRG and DRGRHF have never interchanged any freight or passenger railroad equipment operating in revenue service.

DRGRHF did have a lease agreement for a spur track with SLRG in South Fork Colorado for the purposes of storing derelict equipment. This agreement has been terminated for some time. The derelict equipment remains on our property against our repeated requests to remove it. Although located on land owned by DRGRHF affiliate Rio Grande Southern Company, the spur track itself is actually owned by SLRG.

DRGRHF has derelict equipment stored on SLRGs property at Monte Vista on a siding owned by SLRG. There is no agreement to store this equipment on SLRG's property. DRGRHF has ignored requests to remove this equipment.

To the best of my knowledge, DRGRHF does not have any current arrangements in place with Union Pacific Railroad for interchange of equipment.

I have viewed, but not inspected, the DRGRHF's equipment, in particular that equipment which is seemingly abandoned on our property. The majority of the DRGRHF's equipment is unfit for use, is far out of inspection date, and is in many cases disassembled. That equipment which has wheels is unlikely to be moved on its own wheels safely or for any distance.

Those pieces of equipment which are "in service" appear to be selected for its specific configuration which allows DRGRHF to avoid regulatory oversight in a number of ways. For example, by operating Maintenance of Way equipment with extra seats added, the DRGRHF sells tickets to the public but avoids having to meet minimum thresholds established for equipment, track, bridge, and crew qualifications normally accepted and met by regular Passenger Excursion Railroads.

None of the equipment that I have viewed is fit for interchange service under rules of the Association of American Railroads or would be acceptable for common carrier rail service under the rules of the Federal Railroad Administration (FRA). SLRG would not "make interchange" with the DRGRHF and accept their equipment onto our railroad.

I should also add that there have been no DRGRHF equipment movements over the SLRG during my tenure.

I have seen some of DRGRHF's track, some structures, and right of way. It is best described as weedy, eroded, in need of surfacing, major tie replacement, and heavy bridge repair. It is the overall condition of the line which compels DRGRHF to operate Maintenance of Way equipment, not standard passenger and excursion equipment, on the line. Because of the condition of the line, bridges, and structures, the line is listed as FRA EXCEPTED TRACK, which makes the operation of standard passenger and excursion equipment illegal as well as unsafe. Based on my observations I would not feel comfortable taking my kids on a ride.

Furthermore, the condition of the line, rail weight, and lack of regimented inspection and maintenance typically found on an active railroad makes freight operations implausible. According to documents furnished by DRGRHF in discovery much of the rail on the line is 65 lb., an outdated rail weight for today's traffic needs.

Without a detailed inspection of the line it is not easy to make a solid estimate of the cost to return the line to a state of good repair. I speculate that it would take an investment of approximately 5 million dollars in order to upgrade the line to an FRA Class 1 track condition capable of 286k freight cars. A proper analysis could be undertaken to establish a solid estimate.

By comparison, the SLRG's active track is an FRA Class 2 (or better track condition) and is rated for 286k freight cars in its entirety.

Our annual current freight handling volume with/for the DRGRHR is zero (0).

**VERIFICATION**

STATE OF )  
 )  
CITY OF ) SS

Matthew W Abbey, being duly sworn according to law,  
hereby deposes and states that (s)he is holds the position of General Manager  
with applicant/petitioner (respondent), is authorized to make this  
Verification, has read the foregoing document, and knows the facts asserted  
therein are true and accurate as stated, to the best of (her) his knowledge,  
information, and belief.

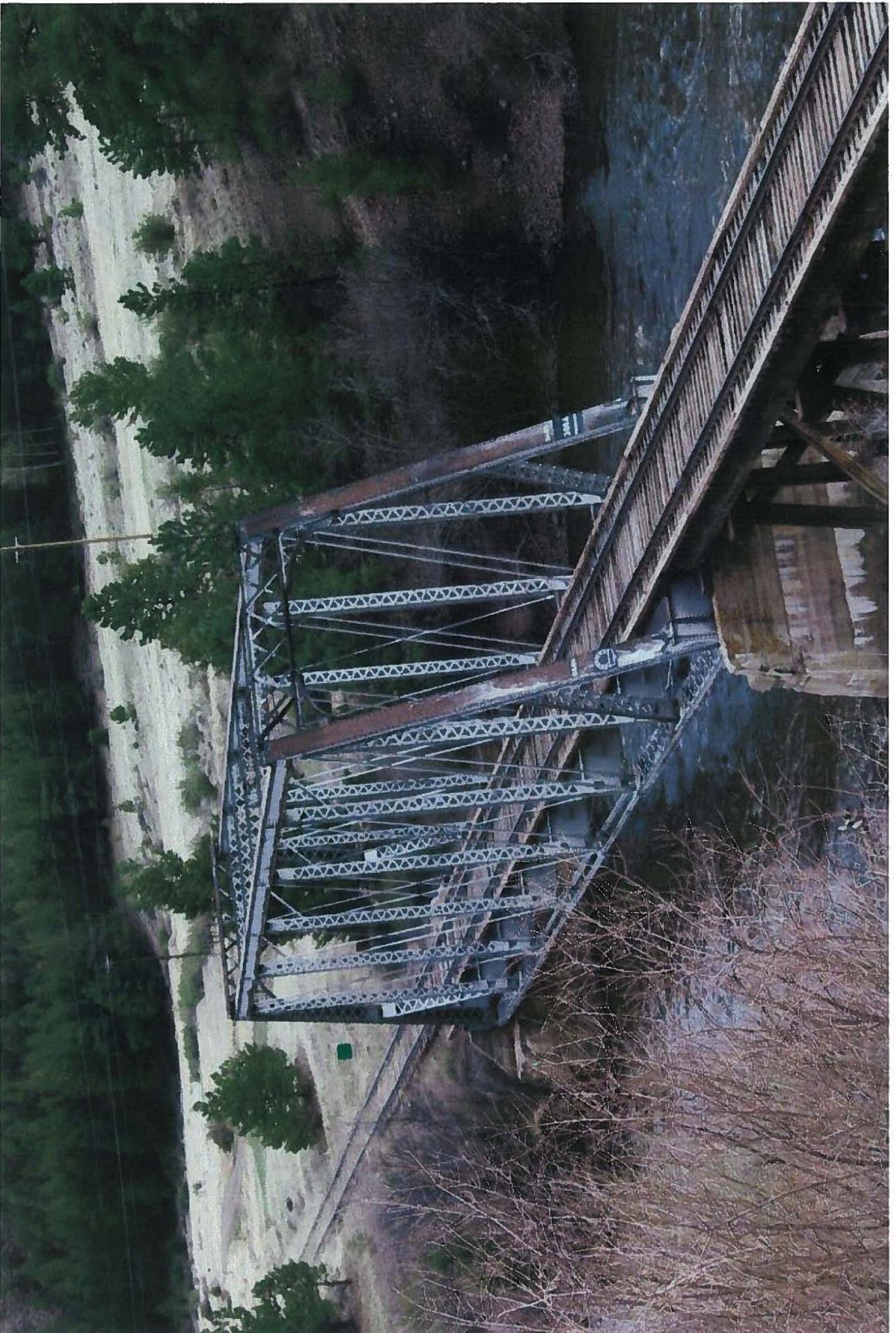
Matthew W Abbey

Subscribed to and sworn to before me, a Notary Public, in and for the City of  
ALAMOSA in the State of CO, this 11 day of July 2012

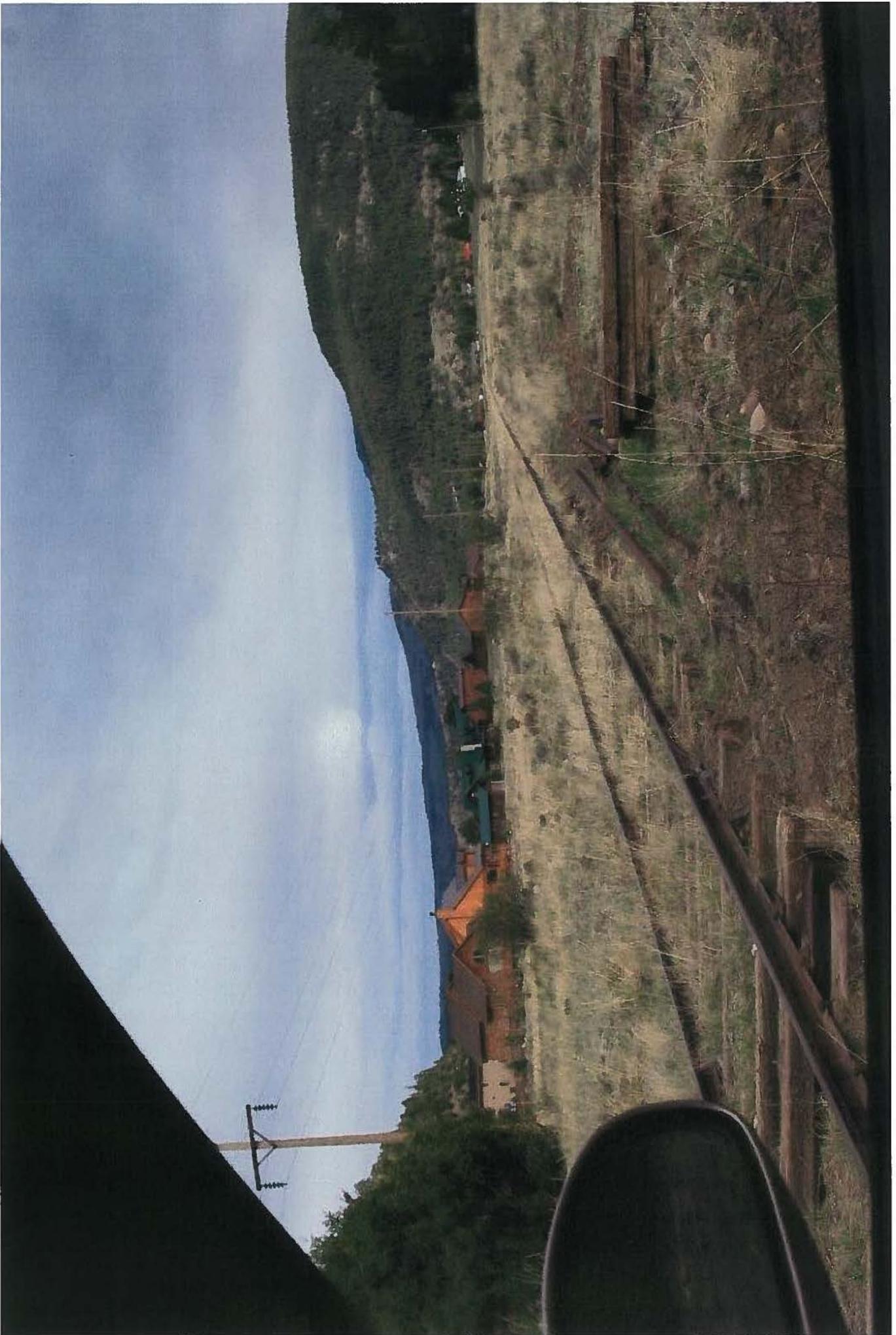
M. Shawn Woods  
Notary Public

My commission expires: 4/6/14

M. Shawn Woods  
**M. SHAWN WOODS  
NOTARY PUBLIC  
STATE OF COLORADO**  
My commission expires 4/6/14







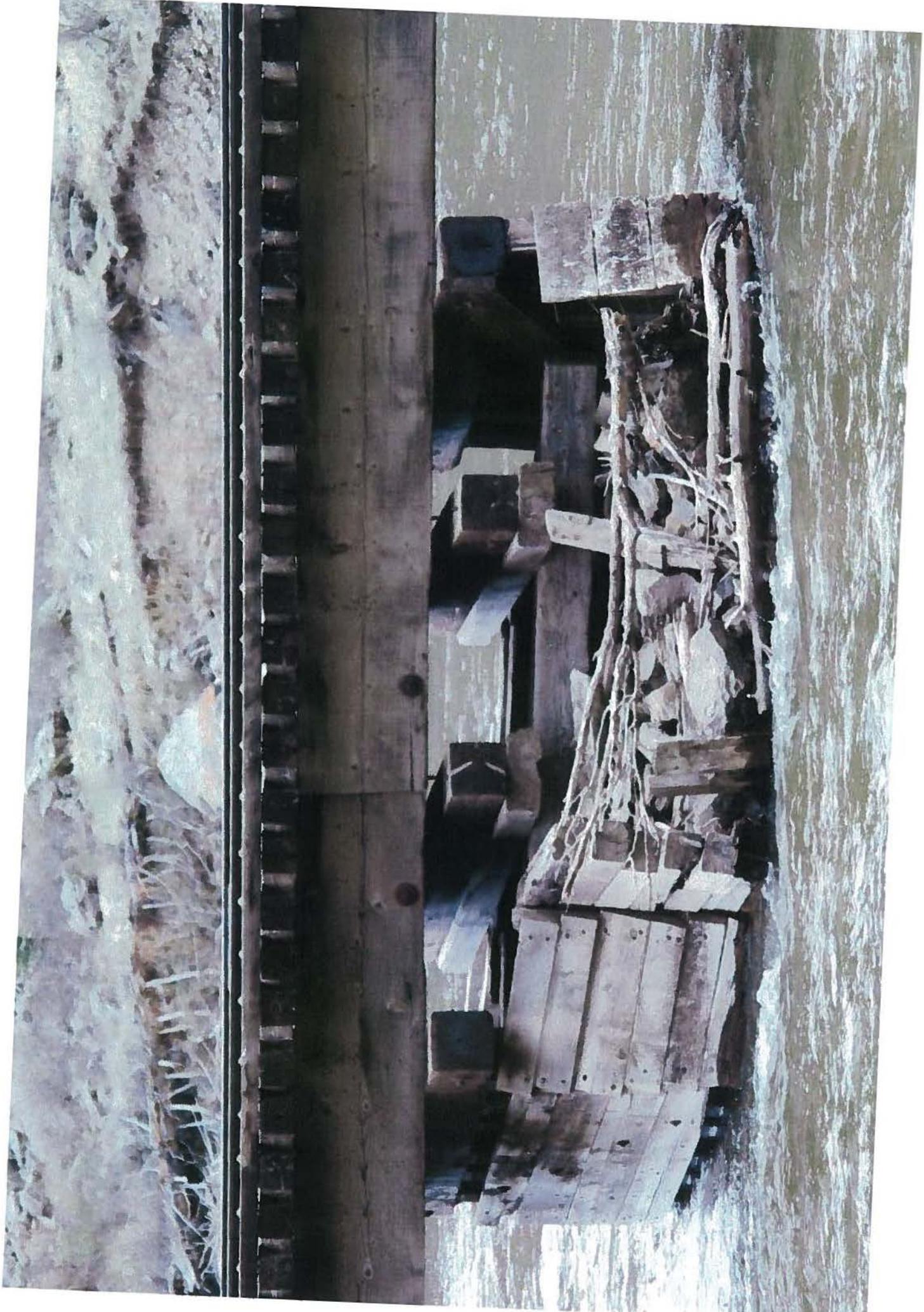
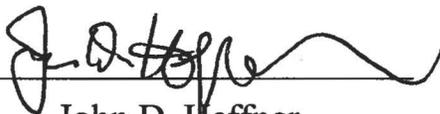




EXHIBIT 8-C  
ATTACHMENT

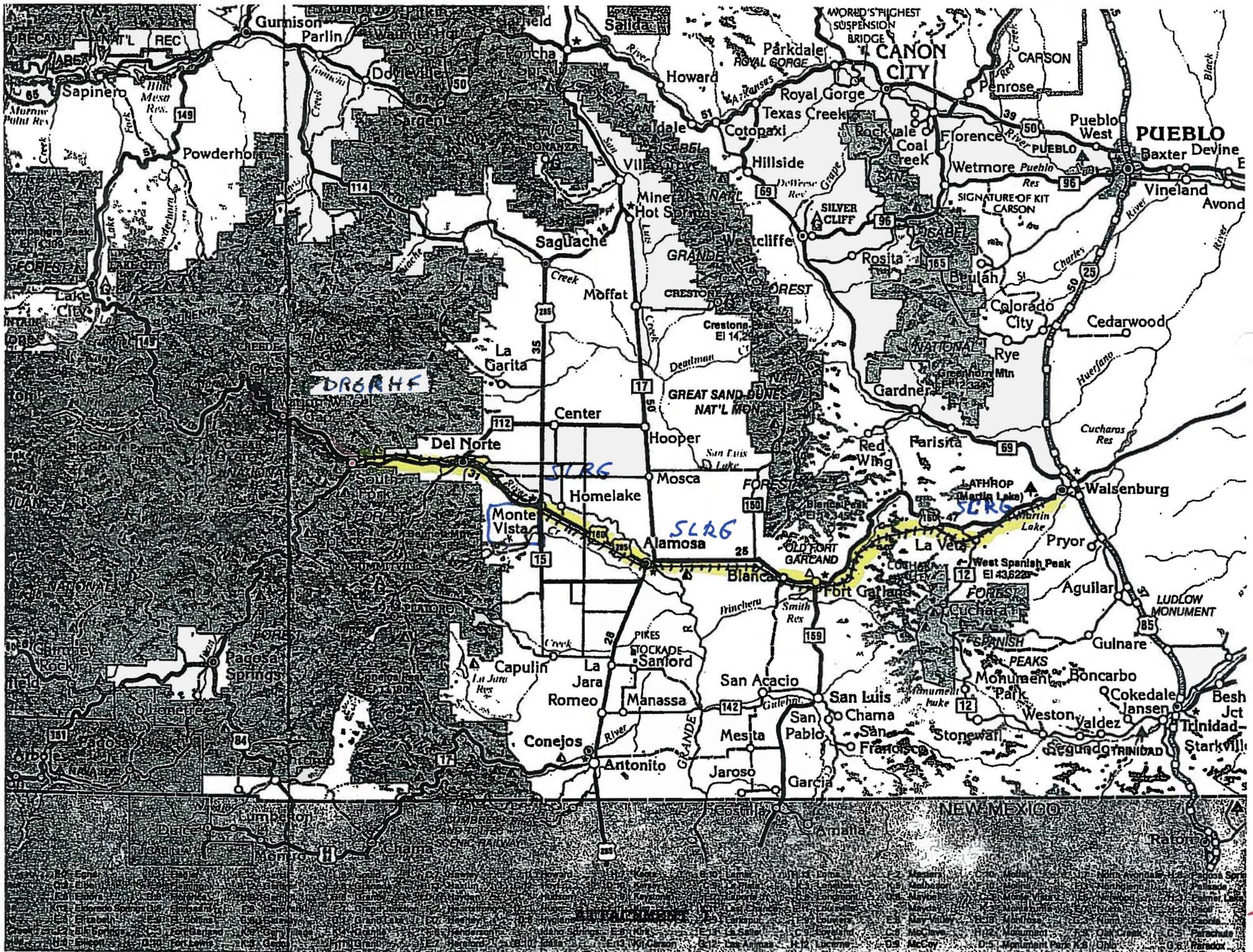
CERTIFICATE OF SERVICE

I, John D. Heffner, hereby certify that a copy of the foregoing Joint Reply Statement of the City of Monte Vista, CO, and the San Luis & Rio Grand Railway to the Opening Statement of the Denver & Rio Grande Railway Historical Foundation, Inc. dated July 11, 2012, was sent by first-class to all parties of record in this proceeding.

  
John D. Heffner

Dated: July 11, 2012

# **EXHIBIT A**



DR6RHF

SLRG

SLRG

SLRG

NEW MEXICO

F

# **EXHIBIT B**

(2) In development of single vacant sites within a developed area, the unit shall be compatible with structures on adjacent properties. Development of manufactured housing shall comply with the site plan, development standards or other design criteria as required for the underlying zone required by City subdivision regulations and zoning regulations.

(3) Units shall not be less than twenty-four (24) feet in width or thirty-six (36) feet in length.

(4) The main roof shall be pitched rather than flat.

(5) Each unit shall be faced in wood siding, brick, a combination thereof or other cosmetically equivalent exterior siding.

(6) The engineered permanent foundation shall be the same as required for "site built"/ "stick built" housing within the City, as required by the Building Code.

(7) Landscaping of the lots shall be consistent with the provisions of this Chapter.

(8) All units shall include a garage unless such a requirement is inconsistent with the surrounding neighborhood.

(9) Architectural compatibility with adjacent development shall be provided through the use of similar colors, building materials, design details, massing, scale or architectural style, including such structural features as porches, alcoves, bay windows, broken-roof pitch lines, wood trim, shutters and other exterior decorative features. (Ord. 789 §18-389, 2006)

**Sec. 12-17-110. Storage and parking of commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, buses, trailers and similar units.**

Commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, boats, buses, trailers and other similar units shall not be parked or stored on any lot or upon any public right-of-way in any zoning district contrary to this Section, except in accordance with the following provisions:

(1) Not more than one (1) commercial vehicle (not to exceed one and one-half [1½] tons rated capacity) on a residential lot, or combination of lots under single ownership, shall be permitted, and in no case shall a commercial vehicle used for hauling explosives, gasoline or liquefied petroleum products be permitted.

(2) Buses, trailers and commercial vehicles not to exceed one and one-half (1½) tons rated capacity, camping units, recreational equipment (which includes, but is not limited to, ATVs and snowmobiles), boats and similar units may be parked or stored on a residential lot, or combination of lots under single ownership, subject to the following conditions:

a. If such units or vehicles are parked in any required front setback, they shall be parked on a constructed driveway. A *constructed driveway* is an off-street parking area built of asphalt, concrete, rock or gravel that occupies no more than forty percent (40%) of the front setback area.

Driveways built of rock or gravel shall be not less than three (3) inches deep and have an outer border to contain the material.

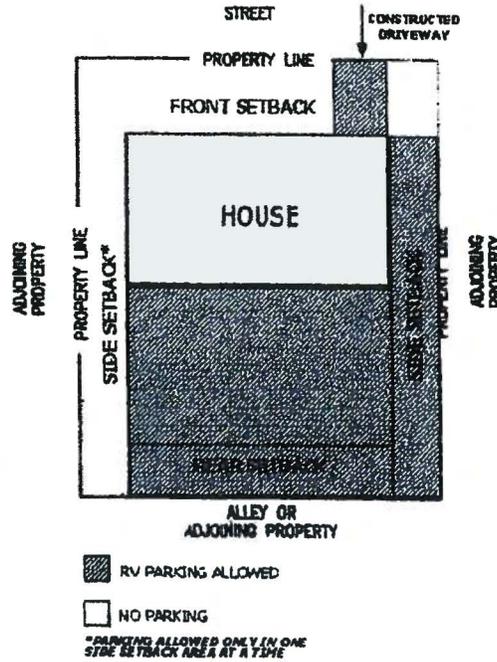
b. If such units or vehicles are parked in any required side setback, they shall be confined to one (1) side setback only.

c. No such units and vehicles shall be parked or stored upon any public right-of-way.

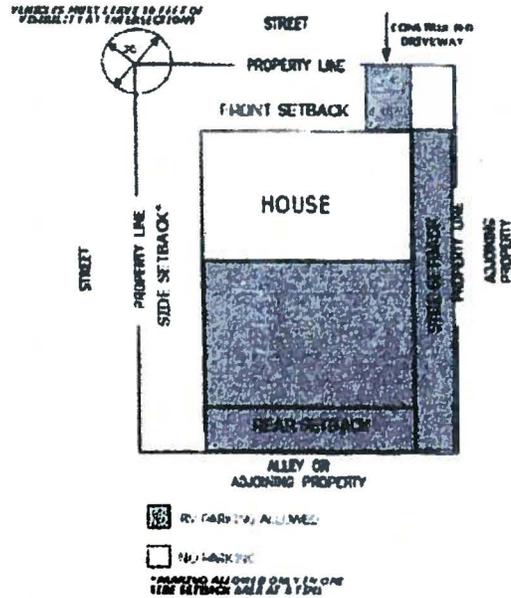
d. No such units and vehicles shall be parked in a manner as to obstruct motorists' view of street intersections or pose any other driver safety hazards, in accordance with the provisions of Section 12-17-70 and the definition of vision clearance area in Section 12-1-10 of this Chapter.

e. A camping unit or recreational vehicle shall not be occupied for more than thirty (30) days in any one (1) year while it is parked or stored in any area within the City, except in a mobile home park or campground authorized under Article 5 of this Chapter.

**RV PARKING AREAS  
TYPICAL LOT DIAGRAM**



**RV PARKING AREAS  
CORNER LOT DIAGRAM**



(3) Railcars may not be stored in any residential, industrial or commercial zone of the City when not connected to a rail line.

(4) A manufactured home single-wide shall not be stored within the City limits except in a licensed mobile home park.

(5) Commercial vehicles, railcars, camping units, manufactured homes single-wide, recreational equipment, boats, buses, trailers and similar units shall be considered stored if not moved for seven (7) consecutive days.

(6) Parking and operation restrictions of commercial and other specified vehicles upon public rights-of-way:

a. *Commercial vehicle*, for the purpose of this Paragraph, is defined as any tandem or single-axle vehicle having a gross vehicle weight rating (GVWR) of thirty-six thousand (36,000) pounds or more;

b. Commercial vehicles, railcars and similar units, designed primarily for conveying products and services, shall only be allowed in commercial and industrial zone districts of the City, upon public rights-of-way. However commercial vehicles and similar units shall be allowed to enter residential areas for the purpose of delivery or retrieval of products and services to specific residences in said areas, as well as commercial vehicles necessarily utilizing the City streets for the purpose of construction or contracting in residentially zoned districts.

c. Parking restrictions in residential, commercial and industrial zone districts: No person shall park any commercial vehicle or similar unit, designed primarily for conveying products and

services, for more than one (1) hour upon any public right-of-way or place ordinarily used for vehicular parking which is zoned residential. No person shall park any such commercial vehicle or railcar for more than forty-eight (48) hours in any area which is zoned commercial or industrial. Movement of said vehicle from one (1) location to another within the City shall be no defense to this Section.

This provision shall not apply to any commercial vehicle, railcar or similar unit which is leased or owned by any permittee granted a permit for construction or repair work or by a public utility engaged in work for which no such permit is required or a vehicle leased or owned by any contractor hired by such permittee or public utility, provided that the commercial vehicle or similar unit is used in such construction or repair site or within one hundred fifty (150) feet thereof as measured from the limits of the work area as specified in the permit and only during the period of actual construction; or to any such trailer, semi-trailer, tractor trailer or commercial vehicle or railcar which is leased or owned by a City department or contractor or vendor hired by such City department for construction or repair work or by a subcontractor thereof.

(7) Commercial vehicles carrying flammable gases or liquids. No commercial vehicle used for transportation of flammable gases or liquids shall be parked in the City in excess of one (1) hour. No driver, operator or attendant shall leave a commercial vehicle unattended during the loading or unloading of flammable gases or liquids. No commercial vehicle used for transportation of flammable gases or liquids shall be parked nearer than twenty-five (25) feet to any building except when loading or unloading such flammable gases or liquids.

(8) Towing authorized. The Police Department is authorized to remove and tow away by a commercial towing service any commercial vehicles, camping units, recreational equipment, buses, trailers and similar units parked in violation of this Section. Such items so towed for illegal parking shall be stored in a safe place and shall be returned to the owner or operator of such vehicle upon payment of the towing and storage fees.

(9) Every person convicted of a violation of this Section may be punished in accordance with the provisions of Section 1-4-20 of this Code. (Ord. 796 §B, 2008; Ord. 811 §1, 2009)

#### **Sec. 12-17-120. Home occupations.**

The purposes of this Section are to encourage major business activities to be conducted in appropriate commercial zones, to allow for home occupations that are compatible with the neighborhoods in which they are located as an accessory use, to safeguard peace, quiet and domestic tranquility within certain residential neighborhoods within the City, to protect residents from excessive noise, excessive traffic, nuisance, fire hazard and other possible adverse effects of commercial uses being conducted in residential areas, to provide a means to terminate home occupations if disruption of a residential neighborhood occurs and to preserve the residential character of residentially zoned areas of the City while allowing limited home occupations.

(1) Home occupation license. A home occupation shall be conducted within the City only in residentially zoned areas, and in compliance with the following provisions:

a. No home occupation may be conducted by any person in the City without having first procured a valid and current license to conduct the same.

# **EXHIBIT C**



# **EXHIBIT D**



118 S. Clinton St.

Suite 400

Chicago, IL 60661

SLRG  
Donald  
Shank  
Deed For  
Corresp

- 1) SENT BY REGULAR U.S. MAIL
- 2) SENT VIA ELECTRONIC MEDIA TO: dhshank@yahoo.com

July 22, 2011

Mr. Donald H. Shank  
20 North Broadway Street  
Monte Vista, CO 81144

Re: Railroad track at Monte Vista, CO

Dear Mr. Shank:

As you are aware, in March, 2005, San Luis & Rio Grande Railroad ("SLRG") sold Rio Grande Southern Railroad Company, LLC approximately 1.84 acres of land located along the east side of U.S. Highway 285 (Broadway), along the south side of SLRG's main line track, at Monte Vista, Colorado (the "Sale Premises"). Attached is a copy of the deed which effectuated this transaction. The survey used in this transaction is attached as the last page of this deed.

Language in this deed specifically reserved to the SLRG ownership in and to the track located within the Sale Premises, along with exclusive rights to use this trackage. However, over recent months, despite requests made by SLRG to remove your railroad equipment from these tracks, you have refused to do so.

Please accept this letter as SLRG's final request that you immediately remove all railroad cars and other railroad equipment from this track. Your failure to do so will result in further action to be taken by SLRG to enforce its exclusive rights to use of this trackage.

Should you have any questions, please do not hesitate to contact me by calling (210) 844-4621.

Sincerely,

Todd N. Cecil  
Vice President – Real Estate Development

Cc: Mr. Matthew Abbey  
Mr. Ed Ellis

501  
Shanda  
referred

## QUITCLAIM DEED

THIS INDENTURE WITNESSETH, That **SAN LUIS & RIO GRANDE RAILROAD, INC.**, a Delaware corporation, ("Grantor") having a mailing address of 601 State Street, Alamosa, Colorado 81101, Releases and Quit-Claims to **RIO GRANDE SOUTHERN RAILROAD COMPANY, LLC**, a Colorado corporation, whose address is 20 N. Broadway, Monte Vista, Colorado 8114, ("Grantee"), for and in consideration of Ten and No/100 Dollars (\$10.00) and other good and valuable consideration, the receipt whereof is hereby acknowledged, all of its right, title and interest in and to all of that certain real property situated in Monte Vista, County of Rio Grande, State of Colorado, as more particularly described in the Exhibit "A" attached and hereby made a part hereof, (the "Premises"), subject to all covenants, leases, licenses, conditions, restrictions, exceptions, easements, rights-of-way, rights-of-access, agreements, reservations, encumbrances, liens and other matters whether of record or not; any matters which would be disclosed by survey, investigation or inquiry; and any tax, assessment or other governmental lien against the Premises, together with all buildings, structures and improvements, and all and singular the rights, alleys, ways, waters, privileges, hereditaments and appurtenances to the Premises belonging or in anyway incident or appertaining (other than Excepted or Reserved herein).

RESERVING unto Grantor, and Grantor's lessees, licensees, designees, successors, and assigns, the ownership of all existing railroad signal and communications equipment, railroad crossing warning and protection devices, poles, cables and other ancillary facilities located above, below and upon the Premises (hereinafter collectively referred to as the "Equipment"), along with an exclusive easement for the benefit of Grantor, and Grantor's lessees, licensees, designees, successors, and assigns over, above, upon and across the Premises for the operation, use, installation, maintenance, relocation repair, and removal of Equipment.

AND FURTHER RESERVING unto Grantor, and its lessees, licensees, designees, successors, and assigns, the ownership of all track and other track materials located within the boundaries of the Premises, along with an exclusive easement for railroad operating purposes over a 30-foot wide strip of land measured 15 feet in each direction from the centerline of existing trackage located within the boundaries of the Premises. Said easement will terminate and all title in the easement area vest in Grantee in the event all railroad trackage and track material within the easement area is removed by Grantor.

Said property being a part of the same property conveyed by Union Pacific Railroad Company to San Luis & Rio Grande Railroad, Inc. by deed dated June 27, 2003 and recorded among the land records of Rio Grande County, Colorado on July 3, 2003, Book 509, Page 163 (hereinafter "Prior Deed").

SUBJECT TO any existing encumbrances which may or may not be revealed by an inspection of the Premises, all existing roads and public utilities; reservations, exceptions, easements and restrictions, both of record and not of record; any applicable laws; taxes and assessments, both general and special, which become due and payable after the date of conveyance and which Grantee assumes and agrees to pay.

AND, FURTHER SUBJECT TO those specific reservations, conditions and/or exceptions made by and in favor of Union Pacific Railroad Company, its successors and assigns, in the Prior Deed, which may affect the hereinbefore described portion of the properties conveyed therein and thereby.

**TO HAVE AND TO HOLD** the same unto Grantee and Grantee's heirs, successors and assigns forever.

Grantee acknowledges that Grantor is operating (and will continue to operate) a railroad upon its adjoining property, and recognizes that such operation may create some noises and vibrations affecting the Premises. Grantee accepts the Premises subject to such noises and vibrations, and hereby covenants to release Grantor from all liability, cost and expense resulting therefrom.

Grantee, by the acceptance hereof, hereby covenants and agrees with Grantor that Grantor shall not: be required to erect or maintain any fences, railings or guard rails along any boundary lines between the Premises and the adjacent land(s) of Grantor or of any other company affiliated with Grantor; or be liable for or required to pay any part of the cost or expense of erecting or maintaining such fences, railings or guard rails or any part hereof; or be liable for any damage, loss or injury that may result by reason of the nonexistence or the condition of any fences, railings or guard rails or the absence thereof. Grantee covenants and agrees that it shall erect and forever maintain a fence along the northern (trackside) boundary of the Premises, said fence or barricade to be subject to the approval of Grantor.

Grantee, by the acceptance hereof, hereby covenants that it, its successors, heirs, legal representatives or assigns, shall maintain the existing drainage on the Premises in such a manner as to not impair adjacent railroad right-of-way drainage and to not redirect or increase the quantity or velocity of surface water runoff or any streams into said Grantor's drainage system or upon the right-of-way or other lands and facilities of Grantor. If said Premises or existing drainage are modified or improved, Grantee agrees to construct and maintain, in accordance with all applicable statutes, ordinances, building and subdivision

codes, covenants and restrictions, an adequate drainage system from the Premises to the nearest public or non-Grantor owned drainage or storm sewer system, in order to prevent the discharge of roof, surface, stream and other drainage waters upon said right-of-way or upon other adjacent lands and facilities of Grantor.

Grantee, by the acceptance hereof, expressly acknowledges that Grantee is buying the Premises in an "AS IS" condition and that Grantee has relied upon its own independent investigation of the physical condition of the Premises. Grantee hereby releases Grantor and Grantor's shareholders, officers, directors, agents and employees from all responsibility and liability regarding the condition (including, but not limited to, the physical condition or presence of hazardous materials), valuation or utility of the Premises.

The above covenants shall run with the title to the Premises conveyed, and bind upon the Grantee, Grantee's heirs, legal representatives and assigns, or corporate successors and assigns, and anyone claiming title to or holding Premises through Grantee.

Send tax statements to: Rio Grande Southern Railroad Company, LLC  
20 N. Broadway  
Monte Vista, Colorado 81144

In construing this Deed and where the context so requires, the singular includes the plural, and all grammatical changes shall be implied to make the provisions hereof apply equally to corporations and individuals.

In Witness Whereof, the said SAN LUIS & RIO GRANDE RAILROAD, INC. has hereunto set its seal, effective the 29th day of March, 2005.

**SAN LUIS & RIO GRANDE RAILROAD, INC.**

A handwritten signature in black ink, appearing to read "Todd N. Cecil", written over a horizontal line.

Todd N. Cecil  
Vice President

(Notary acknowledgment on following page)

# **EXHIBIT E**

*(omitted)*

# **EXHIBIT F**

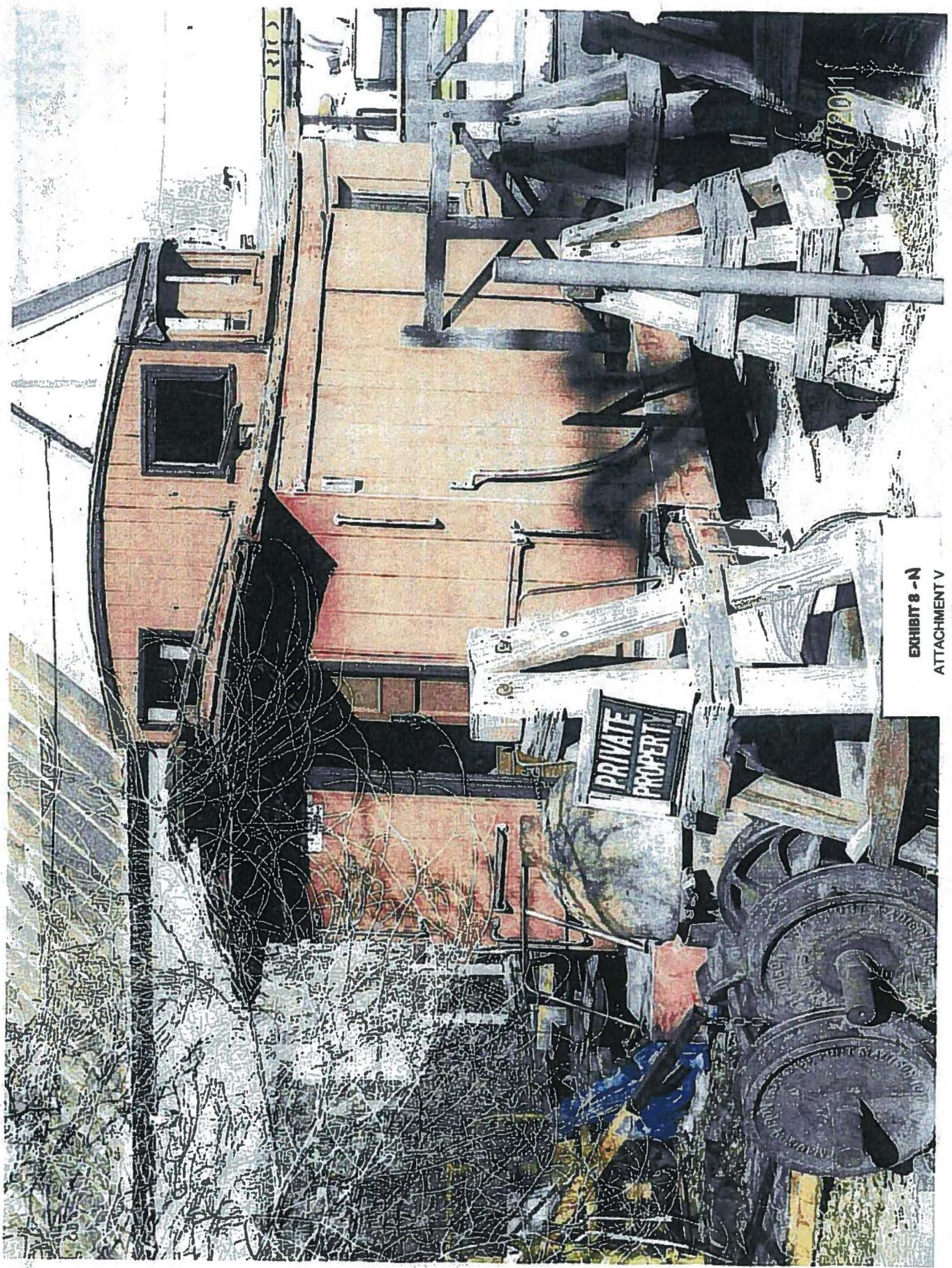


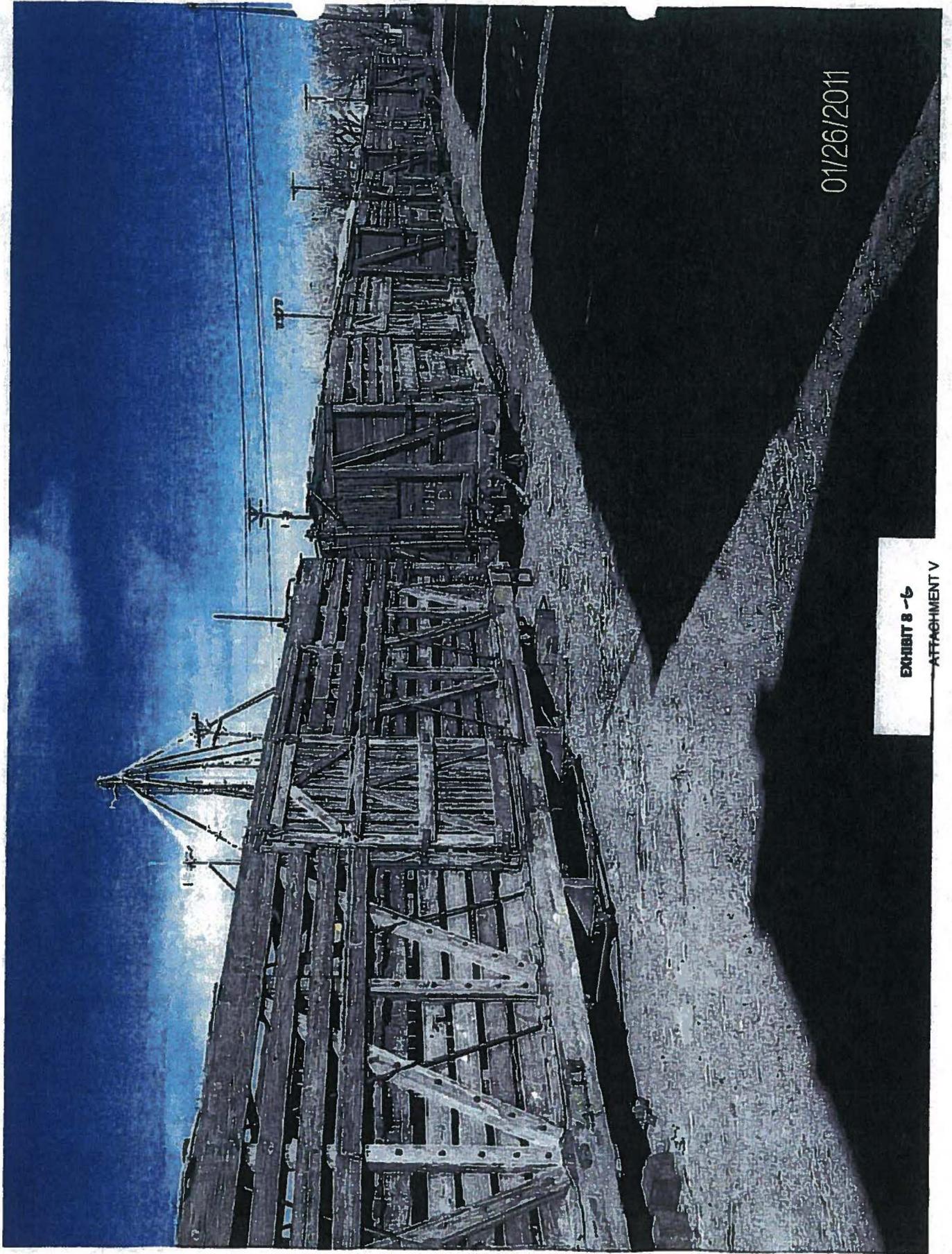
EXHIBIT 8 -N  
ATTACHMENT V

01/27/2011

EXHIBIT 8 - 4

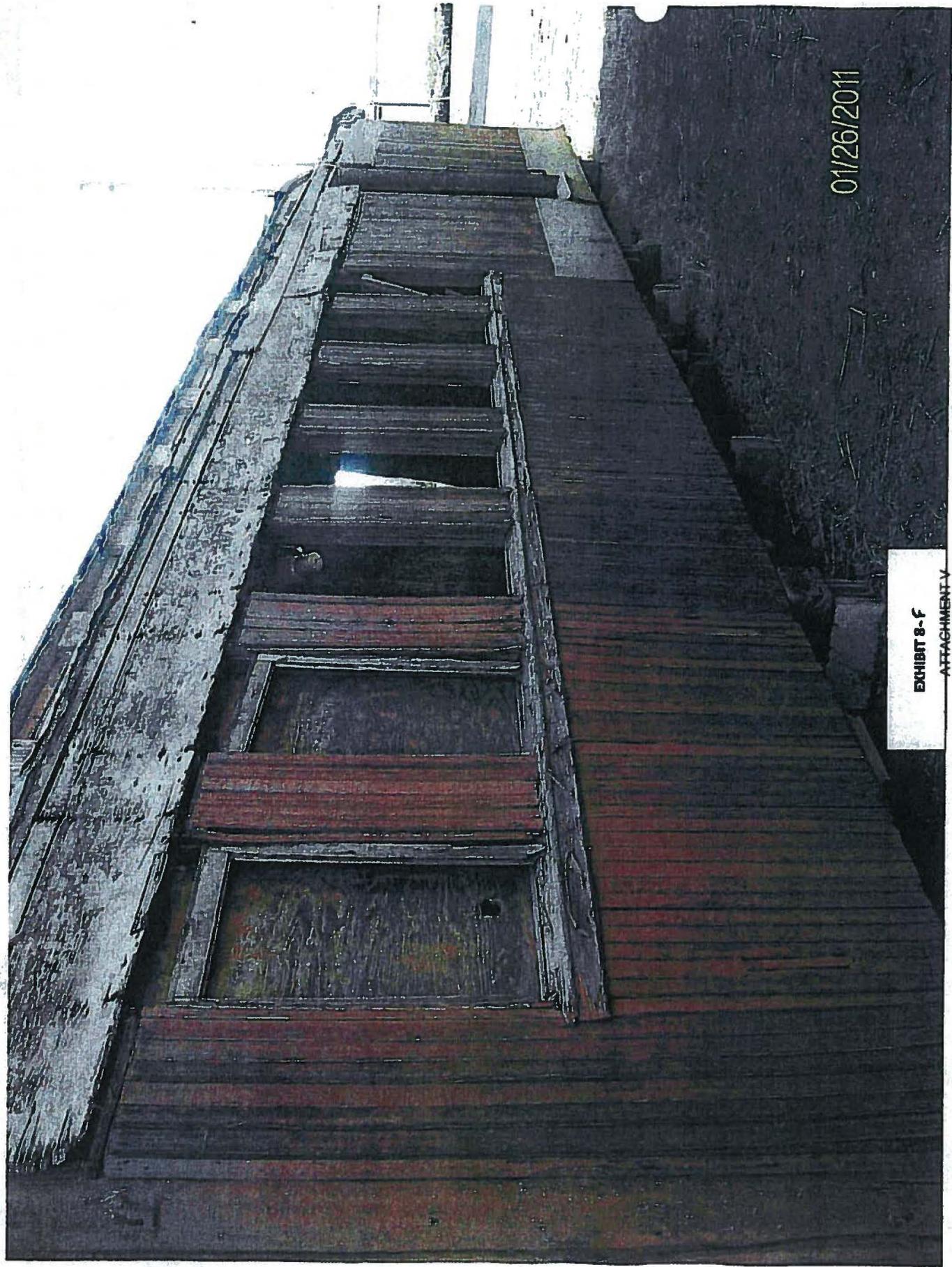
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01/26/2011

EXHIBIT 8 -6  
ATTACHMENT V



01/26/2011

EXHIBIT 8-f  
ATTACHMENT V

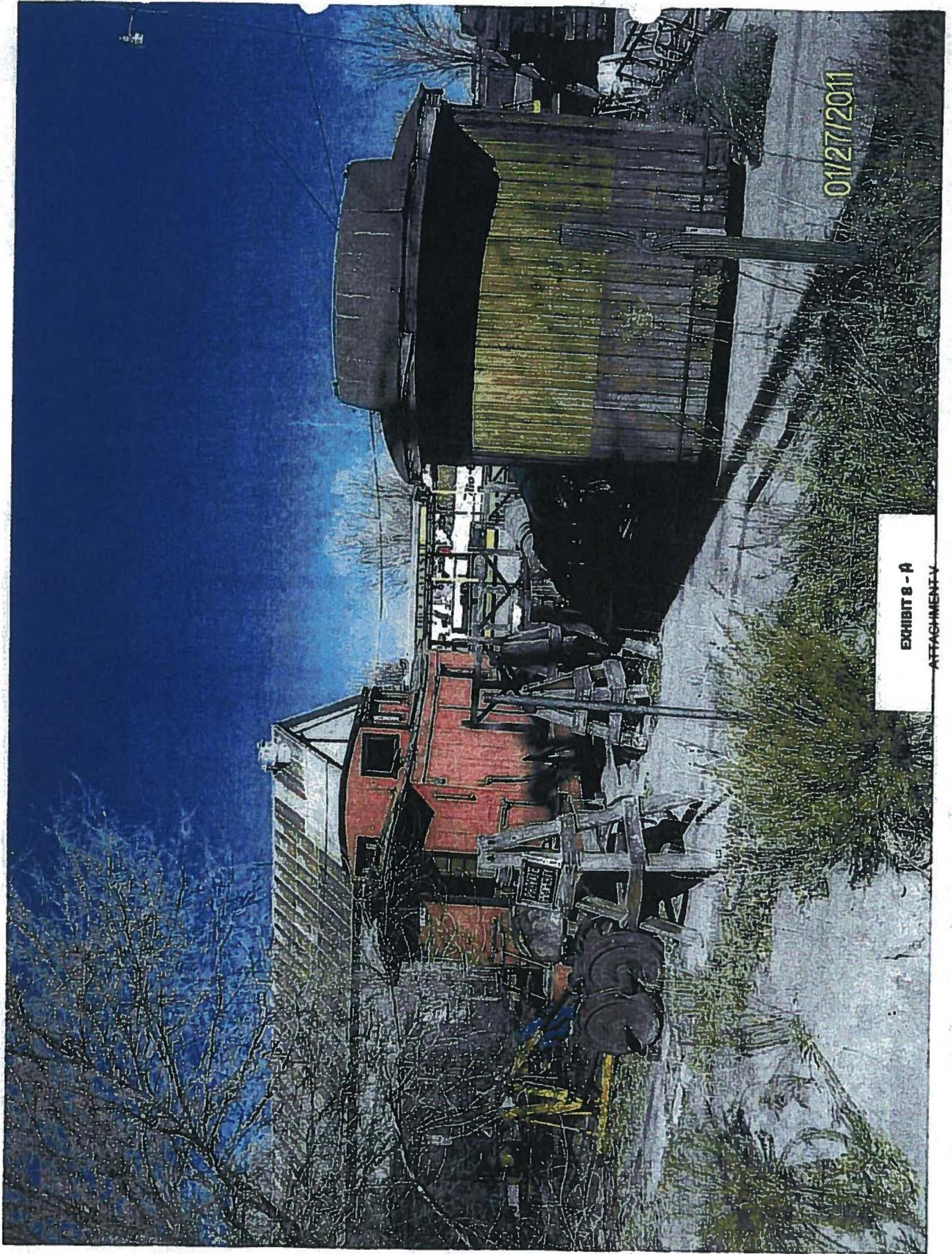
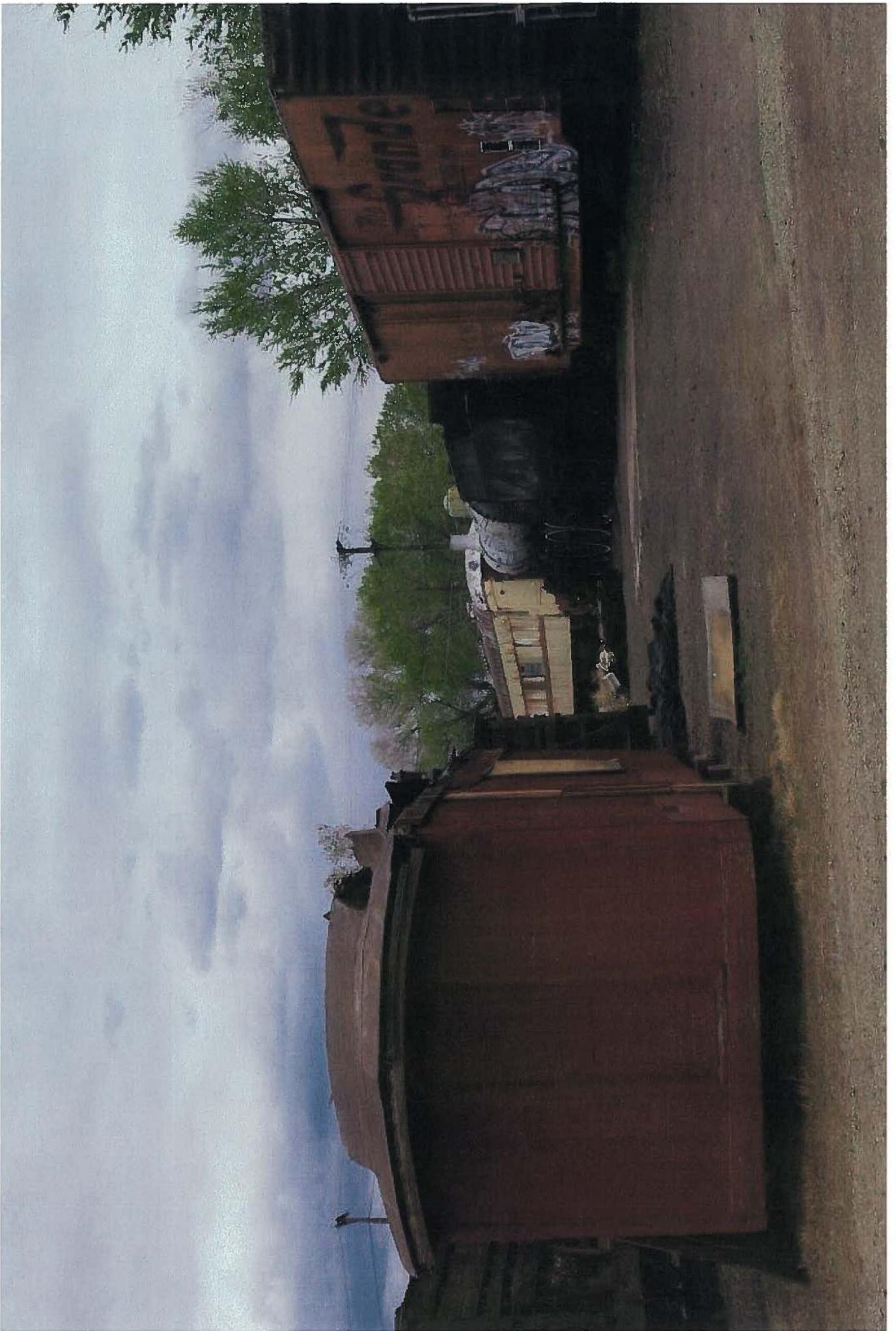


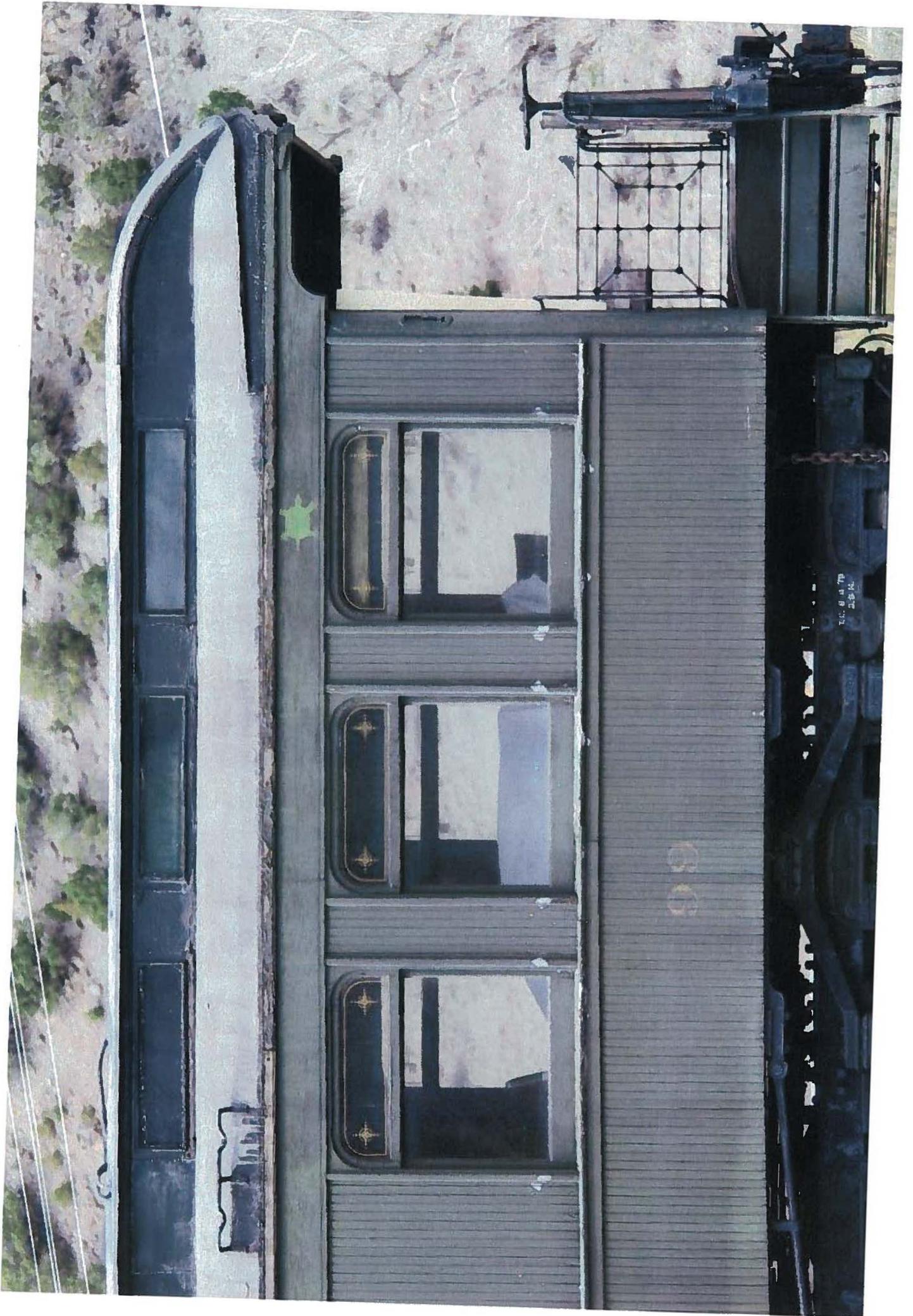
EXHIBIT 8 - A  
ATTACHMENT V











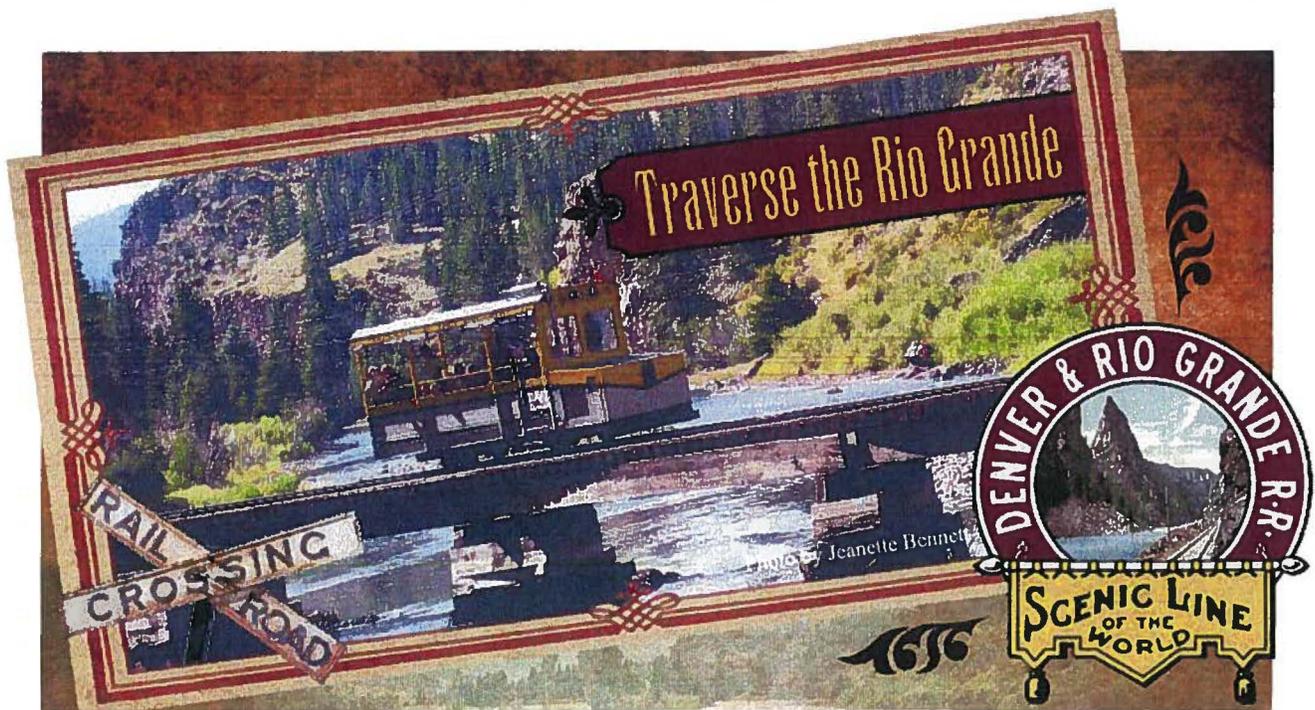


SCENIC RAIL RIDES

CALL 719-873-2003



# **EXHIBIT G**



Home

Book Your Tour

- The Main Event
- Rail and Raft
- Afternoon Delight
- Rio Grande Moonlight

History

The Foundation

Partners

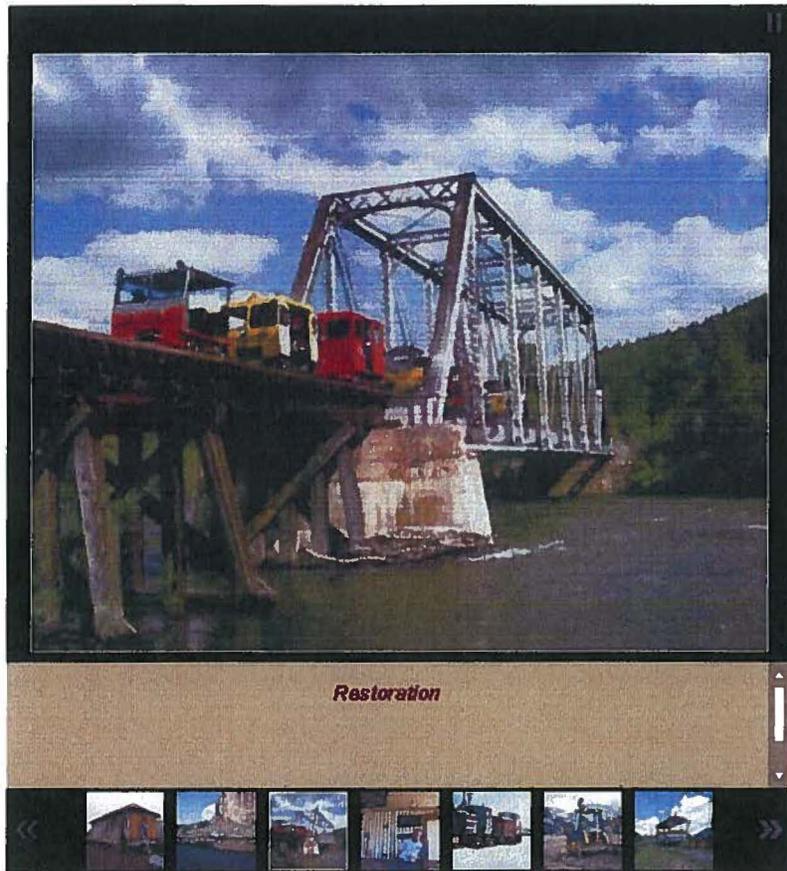
Contact

## The Foundation

### THE DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION

The Foundation was started by a dedicated group of volunteers headed by Donald H. Shank in 1997 for the purpose of preserving this rail line for the education of all, about the role that the Denver & Rio Grande Railroad and it's many successors played in the development of the Upper Rio Grande River Valley. The Histories of Wagon Wheel Gap and Creede were shaped by the development which the Railroad spurred.





**The Foundation is a (501c3) non-profit Corp.**

Donations are fully tax deductible and are very welcome. They may be directed at one or more of our programs, or given for our use in general.

## FUTURE PLANS

Silver Streak is our first rail vehicle, and will be the rail-car for our initial excursion program. We are working on operating regular railroad train equipment as soon as additional repairs are made to our track structure. Maintenance of our track and proeperty is a priority item.

We are in process of restoring a Steam Locomotive (No. FEC 148) to be used on our future excursions. This will take about 3 years.

### **Friends of the Denver & Rio Grande Railway Historical Foundation**

Join with the other folks who help with a variety of projects to enhance the look and feel of the Foundation's programs and the Railroad's historic and educational excursions each year.

---

Denver & Rio Grande Railroad : Phone 719.873.2003 : [Contact Us](#) : [Map & Directions](#)

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Scenic & Train photos provided by James and Jeanette Bennett.

Historical photos donated by John and Cora Glendinning.

Site by: [Master Print and Web Design, Inc.](#)

# **EXHIBIT H**

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

**FD 35496**

**DENVER & RIO GRANDE RAILWAY  
HISTORICAL FOUNDATION, INC.  
D/B/A DENVER & RIO GRANDE RAILROAD, LLC**

**PETITION FOR A DECLARATORY ORDER**

**JOINT DISCOVERY REQUEST OF  
THE CITY OF MONTE VISTA  
AND THE SAN LUIS & RIO GRANDE RAILWAY**

John D. Heffner  
Strasburger & Price, LLP  
1700 K Street, N.W.  
Suite 640  
Washington, D.C. 20006  
(202) 742-8607

Dated: March 1, 2012

by (1) court or agency where pending, (2) case name and number, (3) parties to the proceeding, (4) the nature of the proceeding, and (5) a statement as to outcome or current status.

14. Does DRGRHF owe any real estate taxes for the years 2009 through 2012 that are currently unpaid? If so, please identify (1) the name of the taxing authority, (2) the amount of the tax, and (3) any penalties or interest imposed.

15. Please list all fines or levies imposed during the years 2009 through 2012, inclusive, identifying (1) the name of the agency imposing the fine or levy, (2) the nature of the fine or levy, and (3) the current status (whether paid, contested, dropped, etc.).

16. Please identify all current employees of DRGRHF and their current position.

17. Does DRGRHF own or operate any equipment on which there is a lien or security interest? If so, please identify the (1) the piece of equipment as per the information sought in document production request number 3, (2) provide the name and address of the creditor or other party that imposed the lien or security interest, (3) state where the lien or interest was recorded, and (4) provide all details about the lien or security interest.

18. Has any equipment owned or operated by DRGRHF been the subject of any repossession? If so, please identify the equipment and the circumstances of that repossession.

19. Please identify all freight traffic movements handled by DRGRHF for the years 2009 through 2012 indicating (1) the commodity involved, (2) the number of carloads or tonnage handled, (3) the origin and destination points, (4) the names of the consignees and consignors, (5) whether the traffic was interchanged with other carriers and the names of those carriers, and (6) DRGRHF's portion of the freight rates.

20. Please describe the businesses that you conduct under the name "Donald Shank Construction" at 20 N. Broadway Street, Monte Vista, CO 81144, and any business that you conduct at 0097 Ponderosa Drive, South Fork, CO 81154 under the name "Donald H. Shank." If you do not currently conduct any business under either of these names, please indicate accordingly.

# DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION

A COLORADO 501 (C)(3) NOT-FOR-PROFIT CORPORATION

FEDERAL TAX ID #: 84-1433680

COLORADO CHARITABLE REGISTRATION #: 20023005766

## PRODUCTION OF DOCUMENTS AND RESPONSE TO INTERROGATORIES

The following information, answers, copies and responses are provided at the request of John D. Heffner, Esq. as counsel for The City of Monte Vista, CO and the San Luis & Rio Grande Railroad. Said responses are provided by Donald H. Shank, President and Executive Director of the Denver & Rio Grande Railway Historical Foundation and are true and correct to the best of our ability.

### Production of Documents:

1. See attached copies of financial statements (P&L's) and balance sheets for years 2009 and 2010. 2011 will be available upon completion of the Form 990 on extension.
2. See attached IRS Form 990's for years 2009 and 2010. 2011 is not yet filed and is on extension.
3. See attached Inventory of Equipment.
4. The only active rulings or administrative issues pending against DRGRHF during the years 2009, 2010 or 2011, was the removal of DRGRHF tracks within the city limits of Creede during 2009, as a result of a multi-year litigation ending in an Adverse Abandonment decision. That tracks were removed and that ended an eight year travesty.
5. None *DRB*
6. None *DRB*
7. DRGRHF strives to and successfully maintains its compliant status with all agencies, including, but not limited to the FRA. An occasional phone

FOUNDATION OFFICE: 20 N. BROADWAY ST., MONTE VISTA, CO 81144

SOUTH FORK DEPOT: 97 PONDEROSA DRIVE, SOUTH FORK, CO 81154

TEL: 719-852-7000 S.F. DEPOT: 719-873-2003 Email: [drgrhf@yahoo.com](mailto:drgrhf@yahoo.com)

VISIT US ON THE WEB: [www.denverandriogranderrailroad.com](http://www.denverandriogranderrailroad.com)

conversation may take place between the DRGRHF and the FRA and we receive periodic bulletins via email from them. Annually, they send us CFR 49, Part 200-299 as a reference tool, which we refer to often. Communication between DRGRHF and the FRA is minimal, perhaps because of our stellar safety record of NO DERAILMENTS, ACCIDENTS OR INJURIES.

8. During the 2011 season, DRGRHF began offering "Rail & Raft" excursions. The ticket price of \$27.00/adult and \$17.00/child is split on our books with ½ covering the one-way fare and ½ covering the freight cost of an additional flat-car carried in consist to haul the raft. See attached copies of "Daily Ticket and Sales Report" and copies of the "Agent's Stub" from the "Rail & Raft" ticket. Copies of the first two days ticket stubs are provided. Copies of the stubs for the additional reports are available upon request, but will not be dissimilar from the two days stubs already provided herein.
9. Feel free to visit our website: [www.DenverAndRioGrandeRailroad.com](http://www.DenverAndRioGrandeRailroad.com). Attached please find copies of our brochure from 2009, 2010, 2011 and 2012, copies of our ad (Page 10) in the "Summer on the Rio Grande" magazine as published by Valley Publishing, Inc. Additional ad placed in the "Upper Rio Grande Guide". Copies of the Page 4 ad and our inclusion on the Scenic Rail Tour page are attached. Also see accompanying copy of the flyer from brochure rack and brochure reflecting "Rail & Raft" excursions.
10. DRGRHF has valuation maps (6) reflecting the location and alignment of the entire line from South Fork to Creede. These historic maps are old, brittle and quite large and copying them is not practical for our charitable foundation. They will be available for inspection at the office of Ronald E. Howard, Esq., upon reasonable notice. If copies are demanded, at no time will these maps leave the possession of DRGRHF and/or Mr. Howard. Advance payment will need to be made by Mr. Heffner for their copying. With respect to rail weight, the Creede Branch is predominantly laid with 65# rail. Approximately 10% of the line contains 90# rail. Ties are in acceptable condition with constant maintenance and tie replacement being an ongoing function of DRGRHF. Any critical deficiency is addressed in a timely manner, first. All track is designated "Other than Main Track" and classified by the FRA as "Excepted Track". Speed is restricted and not to exceed 10 mph, as per Employee Timetable No. 7, dated May 26, 2012.
11. DRGRHF's track is a work in progress and continually upgraded. When the track reaches a level of utility consistent with freight equipment currently used in interchange, we'll announce it.
12. The Note between DRGRHF and Union Pacific is a recorded document and as such is readily available for public viewing in both Rio Grande and Mineral Counties. The Note is CURRENT.

INTERROGATORIES

13. No

14. Since this is not 2013, 2012 taxes are not due until next year. DRGRHF's property taxes are paid through Tax Year 2010. 2011 taxes are under review for abatement as application was made last year.

15. None

16. Donald H. Shank as Executive Director is DRGRHF's only employee. All other individuals are loyal and dedicated volunteers.

17. None

18. None

19. Please refer to No. 8 above in the Production of Documents section.

20. None

21. Yes

22. "Slow Orders" may exist from time-to-time and would be identified in the Daily Operating Bulletin ("DOB"). A section of track with deficiencies that would necessitate a slow order would be a first priority for whatever repairs deemed appropriate. Speed would be restricted to 5 mph. None exist at this time.

23. As previously stated, the Note is a matter of public record and it is CURRENT.

The foregoing answers, responses and the supporting documentation were provided and/or approved by Donald H. Shank, Executive Director in and for the DRGRHF and are true and correct to the best of our abilities.

/s/

Donald H. Shank  
President and Executive Director  
Denver & Rio Grande Railway  
Historical Foundation  
20 N. Broadway Street  
Monte Vista, CO 81144  
(719) 852-7000

Dated: June 6, 2012

**DENVER & RIO GRANDE RAILWAY  
DAILY TICKET & SALES REPORT**

OFFICE: **South Fork, CO.**      AGENT: **K. F. Coombs**

DAY: **Wdnesday**  
DATE: **6/22/2011**

TICKET FORM	ORIGIN	DEST.	OPEN #	CLOSE #	No. SOLD	RATE	TOTAL AMOUNT
1a (Adult)	SO FORK	WG WH GP	1105	1121	16	27.00	432.00
1c (Child)	SO FORK	WG WH GP	1391	1394	3	17.00	51.00
1s (Senior)	SO FORK	WG WH GP	5629	5645	16	24.00	384.00
2a (Adult)	SO FORK	WASSON	7032	7032	0	40.00	0.00
2c (Child)	SO FORK	WASSON	11001	11001	0	30.00	0.00
2s (Senior)	SO FORK	WASSON	8015	8015	0	37.00	0.00

FORM 5 Ticket #	RAFT OW WG Amount	OWBL-SF Blnk, One Way Ticket # Amount	RTBL -SF Blank Rnd Trip Ticket # Amount	Cond'r's Cash F Amount (List)	
20001	27.00	12001 6.00			V
20002	27.00				V
20003	17.00				V
20004	17.00				V
20005	17.00				V
20006	17.00				V
					V
					V
				CSH FARE >	0.00
			Tot Form RT 0.00	> > > RT	0.00
Total Form 5	122.00	Tot Form OW 6.00	> > > > >	> > > OW	6.00
Tkt Fm(1/2) 5	61.00	> > > > >	> > > > >	> > > Ticket 5	61.00
Frt Fm(1/2) 5	61.00	Carry to right under net tkt.	SALES -ALL BLANK TO BLANK FORMS \$		0.00

**BLANK TICKET SALES: (BLANK to BLANK)**      **TICKETS - GROSS TOTAL SALES \$ 934.00**

TICKET No.	FROM -- / --TO:	AMOUNT \$	CC#(LAST 4)	ABR.NAME	AMOUNT \$	LESS REFUNDED-	Amount
			1000	Flinn	163.00		
			2328	Wilson	269.00		
			xxxx	Golightly	54.00		
			1002 m	Hanson	122.00		
			7746	Doty	54.00	TOT REFUNDED--	0.00
			8372	Mgn	27.00	<b>NET TICKET(1)</b>	<b>934.00</b>
			7784	Archer	27.00	<b>FREIGHT (2)</b>	<b>61.00</b>
			2127	Myers	48.00	<b>RAFT RENT (3)</b>	<b>0.00</b>
						<b>OTHER SALES(4)</b>	<b>0.00</b>
						<b>TOTAL SLS (5)</b>	<b>995.00</b>
						<b>RECEIPTS SUMMARY</b>	
						<b>CASH RECEIVD</b>	<b>231.00</b>
						<b>CHECKS REC'D</b>	<b>0.00</b>
						<b>BANK DEPOS</b>	<b>231.00</b>
			> > > >	TOT CR CD \$	764.00	<b>TL CR CD</b>	<b>764.00</b>

Carry to above: **TOT BLANK \$ 0.00**      **TOTAL SALES RECEIPTS....(Must Match 5)... \$ 995.00**

(AB)

DENVER & RIO GRANDE RAILWAY					DAY: Saturday			
DAILY TICKET & SALES REPORT					DATE: 6/25/2011			
OFFICE:	South Fork, CO.			AGENT:	K. F. Coombs			
TICKET FORM	ORIGIN	DEST.	OPEN #	CLOSE #	No. SOLD	RATE	TOTAL AMOUNT	
1a (Adult)	SO FORK	WG WH GP	1158	1164	6	27.00	162.00	
1c (Child)	SO FORK	WG WH GP	1402	1404	2	17.00	34.00	
1s (Senior)	SO FORK	WG WH GP	5658	5660	2	24.00	48.00	
2a (Adult)	SO FORK	WASSON	7032	7032	0	40.00	0.00	
2c (Child)	SO FORK	WASSON	11001	11001	0	30.00	0.00	
2s (Senior)	SO FORK	WASSON	8015	8015	0	37.00	0.00	
<b>FORM 5</b>	<b>RAFT OW WG</b>	<b>OWBL-SF Blnk, One Way</b>		<b>RTBL -SF Blank Rnd Trip</b>		<b>Cond'r's Cash F</b>	V	
<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Amount (List)</b>	V	
20007	17.00	12002					V	
20008	17.00						V	
20009	27.00						V	
20010	27.00						V	
20011	27.00						V	
20012	27.00						V	
20013	27.00						V	
20014	27.00						V	
20015	27.00					CSH FARE >	0.00	
20016	27.00			Tot Form RT	0.00	> > > RT	0.00	
Total Form 5	250.00	Tot Form OW	0.00	> > > > >	> > > > >	> > > OW	0.00	
Tkt Fm(1/2 )5	125.00	> > > > >	> > > > >	> > > > >	> > > > >	> > > Ticket 5	125.00	
Frt Fm(1/2) 5	125.00	Carry to right under net tkt.		SALES -ALL BLANK TO BLANK FORMS \$			0.00	
<b>BLANK TICKET SALES: (BLANK to BLANK)</b>				<b>TICKETS - GROSS TOTAL SALES \$</b>			<b>369.00</b>	
TICKET No.	FROM -- / --TO:	AMOUNT \$	CC#(LAST 4)	ABR. NAME	AMOUNT \$	LESS REFUNDED-	Amount	
			6944	BOWMAN, R.	250.00			
			2709	BROWN, L.	54.00			
			5074	VOORHIES	136.00			
			5907	FARQUHAR	54.00			
						TOT REFUNDED---	0.00	
						<b>NET TICKET(1)</b>	<b>369.00</b>	
						<b>FREIGHT (2)</b>	<b>125.00</b>	
						<b>RAFT RENT (3)</b>	<b>0.00</b>	
						<b>OTHER SALES(4)</b>	<b>0.00</b>	
						<b>TOTAL SLS (5)</b>	<b>494.00</b>	
						<b>RECEIPTS SUMMARY</b>		
						<b>CASH RECEIVD</b>	<b>0.00</b>	
						<b>CHECKS REC'D</b>	<b>0.00</b>	
						<b>BANK DEPOS</b>	<b>0.00</b>	
			>>>>>	TOT CR CD \$	494.00	<b>TL CR CD</b>	<b>494.00</b>	
Carry to above:	TOT BLANK \$	0.00	<b>TOTAL SALES RECEIPTS....(Must Match 5)...</b>				<b>\$</b>	<b>494.00</b>

DENVER & RIO GRANDE RAILWAY					DAY: Tuesday		
DAILY TICKET & SALES REPORT					DATE: 6/28/2011		
OFFICE:	South Fork, CO.			AGENT:	K. F. Coombs		
TICKET FORM	ORIGIN	DEST.	OPEN #	CLOSE #	No. SOLD	RATE	TOTAL AMOUNT
1a (Adult)	SO FORK	WG WH GP	1175	1183	8	27.00	216.00
1c (Child)	SO FORK	WG WH GP	1408	1411	3	17.00	51.00
1s (Senior)	SO FORK	WG WH GP	5667	5669	2	24.00	48.00
2a (Adult)	SO FORK	WASSON	7032	7032	0	40.00	0.00
2c (Child)	SO FORK	WASSON	11001	11001	0	30.00	0.00
2s (Senior)	SO FORK	WASSON	8015	8015	0	37.00	0.00
<b>FORM 5</b>	RAFT OW WG	OWBL-SF Blnk, One Way		RTBL -SF Blank Rnd Trip		Cond'r's Cash F	V
<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Amount (List)</b>	V
20017	27.00	12002		6142			V
20018	27.00						V
20019	24.00						V
20020	27.00						V
20021	27.00						V
20022	27.00						V
20023	27.00						V
							V
						CSH FARE >	0.00
				Tot Form RT	0.00	> > > RT	0.00
Total Form 5	186.00	Tot Form OW	0.00	> > > > >	> > > > >	> > > OW	0.00
Tkt Fm(1/2) 5	93.00	> > > > >	> > > > >	> > > > >	> > > > >	> > > Ticket 5	93.00
Frt Fm(1/2) 5	93.00	Carry to right under net tkt.		SALES -ALL BLANK TO BLANK FORMS \$			0.00
<b>BLANK TICKET SALES: (BLANK to BLANK)</b>				<b>TICKETS - GROSS TOTAL SALES \$</b>			<b>408.00</b>
TICKET No.	FROM -- / --TO:	AMOUNT \$	CC#(LAST 4)	ABR.NAME	AMOUNT \$	LESS REFUNDED-	Amount
			8641	LAVENDER.	108.00		
			9163	KLICK	78.00		
			5032	LIPPARD	54.00		
			675	JANTZEN	54.00		
			8865	GATLIN	48.00		
						TOT REFUNDED--	0.00
						<b>NET TICKET(1)</b>	<b>408.00</b>
						<b>FREIGHT (2)</b>	<b>93.00</b>
						<b>RAFT RENT (3)</b>	<b>0.00</b>
						<b>OTHER SALES(4)</b>	<b>0.00</b>
						<b>TOTAL SLS (5)</b>	<b>501.00</b>
						<b>RECEIPTS SUMMARY</b>	
						<b>CASH RECEIVD</b>	<b>159.00</b>
						<b>CHECKS REC'D</b>	<b>0.00</b>
						<b>BANK DEPOS</b>	<b>159.00</b>
			> > > >	TOT CR CD \$	342.00	<b>TL CR CD</b>	<b>342.00</b>
Carry to above:	TOT BLANK \$	0.00	<b>TOTAL SALES RECEIPTS....(Must Match 5) . . . \$</b>				<b>501.00</b>

(22)





DENVER & RIO GRANDE RAILWAY DAILY TICKET & SALES REPORT South Fork, CO.					DAY: Tuesday DATE: 7/5/2011			
OFFICE:					AGENT:	K. F. Coombs		
TICKET FORM	ORIGIN	DEST.	OPEN #	CLOSE #	No. SOLD	RATE	TOTAL AMOUNT	
1a (Adult)	SO FORK	WG WH GP	1236	1266	30	27.00	810.00	
1c (Child)	SO FORK	WG WH GP	1436	1446	10	17.00	170.00	
1s (Senior)	SO FORK	WG WH GP	5682	5686	4	24.00	96.00	
2a (Adult)	SO FORK	WASSON	7032	7032	0	40.00	0.00	
2c (Child)	SO FORK	WASSON	11001	11001	0	30.00	0.00	
2s (Senior)	SO FORK	WASSON	8015	8015	0	37.00	0.00	
<b>FORM 5</b>	<b>RAFT OW WG</b>	<b>OWBL-SF Blnk, One Way</b>		<b>RTBL -SF Blank Rnd Trip</b>		<b>Cond'r's Cash F</b>	V	
<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Amount (List)</b>	V	
20025	17.00	12002		6142			V	
20026	27.00						V	
20027	27.00						V	
20028	27.00						V	
20029	27.00						V	
20030	27.00						V	
20031	27.00						V	
20032	27.00						V	
						CSH FARE >	0.00	
				Tot Form RT	0.00	> > > RT	0.00	
Total Form 5	206.00	Tot Form OW	0.00	> > > >	> > > >	> > > OW	0.00	
Tkt Fm(1/2) 5	103.00	> > > >	> > > >	> > > >	> > > >	> > > Ticket 5	103.00	
Frt Fm(1/2) 5	103.00	Carry to right under net tkt.		SALES -ALL BLANK TO BLANK FORMS \$			0.00	
<b>BLANK TICKET SALES: (BLANK to BLANK)</b>				<b>TICKETS - GROSS TOTAL SALES \$</b>			<b>1179.00</b>	
TICKET No.	FROM -- / -- TO	AMOUNT \$	CC#(LAST 4)	ABR. NAME	AMOUNT \$	LESS REFUNDED-	Amount	
			7924	EMTER	136.00			
			152	MATTHEWS	-17.00			
			8810	SHRADER	260.00			
			152	MATTHWS	98.00			
			8994	GAUTLER	187.00	TOT REFUNDED--	0.00	
			8515	RIFFEL	54.00	<b>NET TICKET(1)</b>	<b>1179.00</b>	
			1892	RIFFEL	54.00	<b>FREIGHT (2)</b>	<b>103.00</b>	
			3354	WEINS	133.00	<b>RAFT RENT (3)</b>	<b>0.00</b>	
			1506	MYERS	142.00	<b>OTHER SALES(4)</b>	<b>0.00</b>	
						<b>TOTAL SLS (5)</b>	<b>1282.00</b>	
						<b>RECEIPTS SUMMARY</b>		
						<b>CASH RECEIVD</b>	<b>235.00</b>	
						<b>CHECKS REC'D</b>	<b>0.00</b>	
						<b>BANK DEPOS</b>	<b>235.00</b>	
			>>>>	TOT CR CD \$	1047.00	<b>TL CR CD</b>	<b>1047.00</b>	
Carry to above:	TOT BLANK \$	0.00	<b>TOTAL SALES RECEIPTS....(Must Match 5)... \$</b>					<b>1282.00</b>



DENVER & RIO GRANDE RAILWAY DAILY TICKET & SALES REPORT					DAY: Friday DATE: 7/15/2011			
OFFICE:	South Fork, CO.				AGENT:	K. F. Coombs		
TICKET FORM	ORIGIN	DEST.	OPEN #	CLOSE #	No. SOLD	RATE	TOTAL AMOUNT	
1a (Adult)	SO FORK	WG WH GP	1376	1387	11	27.00	297.00	
1c (Child)	SO FORK	WG WH GP	1504	1510	6	17.00	102.00	
1s (Senior)	SO FORK	WG WH GP	5745	5756	11	24.00	264.00	
2a (Adult)	SO FORK	WASSON	7035	7035	0	40.00	0.00	
2c (Child)	SO FORK	WASSON	11001	11001	0	30.00	0.00	
2s (Senior)	SO FORK	WASSON	8017	8017	0	37.00	0.00	
<b>FORM 5</b>	<b>RAFT OW WG</b>	<b>OWBL-SF Blnk, One Way</b>		<b>RTBL -SF Blank Rnd Trip</b>		<b>Cond'r's Cash F</b>		
<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Ticket #</b>	<b>Amount</b>	<b>Amount (List)</b>		
20035	27.00	12003		6146	0.00	345.00		
20036	27.00			6147	0.00	Coffee Shop		
				given to Rio Grande Hosp.		charter		
				Raffle Fundraiser		23@15.00		
							V	
							V	
							V	
							V	
							V	
							V	
						CSH FARE >	345.00	
				Tot Form RT	0.00	> > > RT	0.00	
Total Form 5	54.00	Tot Form OW	0.00	> > > >	> > > >	> > > OW	0.00	
Tkt Fm(1/2) 5	27.00	> > > >	> > > >	> > > >	> > > >	> > > Ticket 5	27.00	
Fri Fm(1/2) 5	27.00	Carry to right under net tkt.		SALES -ALL BLANK TO BLANK FORMS \$			0.00	
<b>BLANK TICKET SALES: (BLANK to BLANK)</b>				<b>TICKETS - GROSS TOTAL SALES \$</b>			<b>1035.00</b>	
TICKET No.	FROM -- / -- TO:	AMOUNT \$	CC#(LAST 4)	ABR.NAME	AMOUNT \$	LESS REFUNDED-	Amount	
			5532m	McCOY	61.00			
			2756M	McCOY	75.00			
			4400M	CARLIN	48.00			
			8423M	CARLIN	48.00			
			1931M	CARLIN	54.00			
			4712	BEGALLE	15.00			
				DIDN'T PRNT	78.00			
				MISSING	54.00			
						TOT REFUNDED---	0.00	
						<b>NET TICKET(1)</b>	<b>1035.00</b>	
						<b>FREIGHT (2)</b>	<b>27.00</b>	
						<b>RAFT RENT (3)</b>	<b>0.00</b>	
						<b>OTHER SALES(4)</b>	<b>0.00</b>	
						<b>TOTAL SLS (5)</b>	<b>1062.00</b>	
						<b>RECEIPTS SUMMARY</b>		
						<b>CASH RECEIVD</b>	<b>629.00</b>	
						<b>CHECKS REC'D</b>	<b>0.00</b>	
						<b>BANK DEPOS</b>	<b>629.00</b>	
						<b>TL CR CD</b>	<b>433.00</b>	
			>>>>	TOT CR CD \$	433.00			
Carry to above:	TOT BLANK \$	0.00	<b>TOTAL SALES RECEIPTS....(Must Match 5)...</b>				<b>\$</b>	<b>1062.00</b>

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**DENVER & RIO GRANDE RAILWAY  
DAILY TICKET & SALES REPORT  
South Fork, CO.**

**DAY: Wednsdy  
DATE: 7/27/2011**

**OFFICE:**

**AGENT:**

**K. F. Coombs**

TICKET FORM	ORIGIN	DEST.	OPEN #	CLOSE #	No. SOLD	RATE	TOTAL AMOUNT
1a (Adult)	SO FORK	WG WH GP	1538	1542	4	27.00	108.00
1c (Child)	SO FORK	WG WH GP	1558	1559	1	17.00	17.00
1s (Senior)	SO FORK	WG WH GP	5808	5811	3	24.00	72.00
2a (Adult)	SO FORK	WASSON	7039	7039	0	40.00	0.00
2c (Child)	SO FORK	WASSON	11002	11002	0	30.00	0.00
2s (Senior)	SO FORK	WASSON	8021	8021	0	37.00	0.00

FORM 5	RAFT OW WG	OWBL-SF Blnk, One Way	RTBL -SF Blank Rnd Trip	Cond'r's Cash F	
Ticket #	Amount	Ticket #	Amount	Amount (List)	
20048	27.00	12006	6152		V
20049	27.00				V
20050	27.00				V
20051	17.00				V
20052	17.00				V
					V
					V
				CSH FARE >	0.00
			Tot Form RT	0.00 > > > RT	0.00
Total Form 5	115.00	Tot Form OW	0.00	> > > > > > > > > OW	0.00
Tkt Fm(1/2) 5	57.50	> > > > >	> > > > >	> > > > > Ticket 5	57.50
Frt Fm(1/2) 5	57.50	Carry to right under net tkt.	SALES -ALL BLANK TO BLANK FORMS \$		0.00

**BLANK TICKET SALES: (BLANK to BLANK) TICKETS - GROSS TOTAL SALES \$ 254.50**

TICKET No.	FROM -- / --TO	AMOUNT \$	CC#(LAST 4)	ABR.NAME	AMOUNT \$	LESS REFUNDED-	Amount	
30003			8914	CROUSE	115.00			
			6716	GRANT	23.54			
			1014	MARTIN	48.00			
			6716	GRANT	27.00			
			8964	JOHNSON	98.00			
						TOT REFUNDED---	0.00	
						<b>NET TICKET(1)</b>	<b>254.50</b>	
						<b>FREIGHT (2)</b>	<b>57.50</b>	
						<b>RAFT RENT (3)</b>	<b>0.00</b>	
						<b>OTHER SALES(4)</b>	<b>0.00</b>	
						<b>TOTAL SLS (5)</b>	<b>312.00</b>	
						<b>RECEIPTS SUMMARY</b>		
						<b>CASH RECEIVD</b>	<b>0.46</b>	
						<b>CHECKS REC'D</b>	<b>0.00</b>	
						<b>BANK DEPOS</b>	<b>0.46</b>	
			> > > >	TOT CR CD \$	311.54	<b>TL CR CD</b>	<b>311.54</b>	
Carry to above:	TOT BLANK \$	0.00	<b>TOTAL SALES RECEIPTS....(Must Match 5)... \$</b>					<b>312.00</b>

25

**DENVER & RIO GRANDE RAILWAY  
DAILY TICKET & SALES REPORT  
South Fork, CO.**

**DAY: Monday  
DATE: 8/1/2011**

**OFFICE:**

**AGENT:**

**K. F. Coombs**

TICKET FORM	ORIGIN	DEST.	OPEN #	CLOSE #	No. SOLD	RATE	TOTAL AMOUNT
1a (Adult)	SO FORK	WG WH GP	1588	1595	7	27.00	189.00
1c (Child)	SO FORK	WG WH GP	1576	1578	2	17.00	34.00
1s (Senior)	SO FORK	WG WH GP	5829	5832	3	24.00	72.00
2a (Adult)	SO FORK	WASSON	7039	7039	0	40.00	0.00
2c (Child)	SO FORK	WASSON	11002	11002	0	30.00	0.00
2s (Senior)	SO FORK	WASSON	8021	8021	0	37.00	0.00

FORM 5 Ticket #	RAFT OW WG Amount	OWBL-SF Blnk, One Way Ticket #	Amount	RTBL -SF Blank Rnd Trip Ticket #	Amount	Cond'r's Cash F Amount (List)	
20053	27.00	12007		6160			V
20054	27.00						V
20055	27.00						V
20056	24.00						V
20057	24.00						V
20058	17.00						V
							V
						CSH FARE >	0.00
				Tot Form RT	0.00	> > > RT	0.00
Total Form 5	146.00	Tot Form OW	0.00	> > > >	> > > >	> > > OW	0.00
Tkt Fm(1/2) 5	73.00	> > > >	> > > >	> > > >	> > > >	> > > Ticket 5	73.00
Frt Fm(1/2) 5	73.00	Carry to right under net tkt.		SALES -ALL BLANK TO BLANK FORMS \$			0.00

**BLANK TICKET SALES: (BLANK to BLANK) TICKETS - GROSS TOTAL SALES \$ 368.00**

TICKET No.	FROM -- / --TO:	AMOUNT \$	CC#(LAST 4)	ABR. NAME	AMOUNT \$	LESS REFUNDED-	Amount
30003			6323M	FOX	122.00		
			2217M	SEAMSTER	146.00		
			9142	HUTSON	71.00		
						TOT REFUNDED--	0.00
						<b>NET TICKET(1)</b>	<b>368.00</b>
						<b>FREIGHT (2)</b>	<b>73.00</b>
						<b>RAFT RENT (3)</b>	<b>0.00</b>
						<b>OTHER SALES(4)</b>	<b>0.00</b>
						<b>TOTAL SLS (5)</b>	<b>441.00</b>
						<b>RECEIPTS SUMMARY</b>	
						<b>CASH RECEIVD</b>	<b>102.00</b>
						<b>CHECKS REC'D</b>	<b>0.00</b>
						<b>BANK DEPOS</b>	<b>102.00</b>
						<b>TL CR CD</b>	<b>339.00</b>
			>>>>	TOT CR CD \$	339.00		

Carry to above: TOT BLANK \$ 0.00 **TOTAL SALES RECEIPTS....(Must Match 5). . . \$ 441.00**

(25)



D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC ( ) SOUTH FORK to AD ( )  
WAGON WHEEL GAP CH (✓)  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20007 17<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
SFO SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = By Alpine Bike & SR ( )  
Educational & Historical Rail Trips  
No. 20011 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
SFO SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = By Alpine Bik SR ( )  
Educational & Historical Rail Trips  
No. 20015 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC ( ) SOUTH FORK to AD ( )  
WAGON WHEEL GAP CH (✓)  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20008 17<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
SFO SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = By Alpine Bike SR ( )  
Educational & Historical Rail Trips  
No. 20012 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
SFO SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = By Alpine Bike & SR ( )  
Educational & Historical Rail Trips  
No. 20016 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC ( ) SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20009 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
SFO SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = By Alpine Bike SR ( )  
Educational & Historical Rail Trips  
No. 20013 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC ( ) SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20010 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
SFO SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = By Alpine Bike SR ( )  
Educational & Historical Rail Trips  
No. 20014 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC( ) SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = Issued by D&RG SR ( )  
Educational & Historical Rail Trips  
No. 20001 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC( ) SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH (✓)  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20004 17<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC( ) SOUTH FORK to AD (✓)  
WAGON WHEEL GAP CH ( )  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20002 27<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC( ) SOUTH FORK to AD ( )  
WAGON WHEEL GAP CH (✓)  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20005 17<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC( ) SOUTH FORK to AD ( )  
WAGON WHEEL GAP CH (✓)  
via Rail Car = Issued by D& SR ( )  
Educational & Historical Rail Trips  
No. 20003 17<sup>00</sup> <Fare

D & R G RR Agent's Stub Form 5  
Round Trip Excursion RAIL &  
on Date Reserved RAFT  
CC( ) SOUTH FORK to AD ( )  
WAGON WHEEL GAP CH (✓)  
via Rail Car = Issued by D&RG SR ( )  
Educational & Historical Rail Trips  
No. 20006 17<sup>00</sup> <Fare

# **EXHIBIT I**

# Scenic Railroad Tours

**ALL ABOARD!** Experience first hand a piece of the past on a railroad tour. The San Luis Valley is fortunate to have three working scenic railroads available for public tours, take a step back in time to the American West and enjoy the incredible views on steep mountain slopes while the powerful steam engine chugs along. This is one experience that shouldn't be missed!

## CUMBRES & TOLTEC SCENIC RAILROAD

The Cumbres & Toltec Scenic Railroad operates 7 days a week. Daily departures out of Antonito, CO and Chama, NM at 10am. Check out the full schedule at [www.CumbresToltec.com](http://www.CumbresToltec.com)

### SPECIAL TRAINS

- Moonlight Dinner & Wine Tasting Trains*  
6/2, 6/30, 7/25, 8/31, 9/29
- Cumbres Fiesta Trains* - 6/9, 7/21, 8/13, 9/6
- Cinder Bear Trains* - 6/23, 7/12, 7/26, 8/2, 8/9, 8/26
- 4th of July Freedom Train* - 7/4

## DENVER & RIO GRANDE SCENIC RAILROAD

Travel back in time with the Denver & Rio Grande Scenic Railroad! Join us for one of our scenic excursions from South Fork to the historic resorts at Wagon Wheel Gap. Check out the full schedule at [www.denverandriograndersrailroad.com](http://www.denverandriograndersrailroad.com)

### SPECIAL TRAINS

- The Main Event*  
May 26 - October 7 : Departs Daily at 10am
- Afternoon Delight*  
May 26 - October 7 : Departs Daily at 3pm
- Rio Grande Moonlight*  
Call for 2012 Dates : Departs Daily at 7:30pm

## RIO GRANDE SCENIC RAILROAD

The Rio Grande Scenic Railroad has many popular routes to explore, including: La Vera Mountaineer, Fort Garland Limited, Toltec Gorge Limited, Festival Flyer, and Potato Valley Explorer. Check out the full schedule at [www.RioGrandeScenicRailroad.com](http://www.RioGrandeScenicRailroad.com)

### SPECIAL TRAINS

- Mountain Rails Live Concerts* - 6/16 - 8/26
- Rails & Ales Brewfest* - 6/23
- Cumbres Connection* - Weds thru Sun 5/25 - 9/2
- Valley Steam Flyer* - Thursdays, 6/21 - 8/16
- Excursion Trains* - Friday thru Sun, 5/25 - 9/23

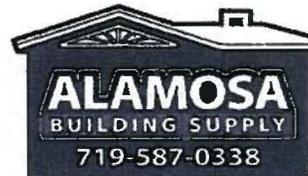
Photo courtesy of Jeanette Bennett

WE ARE MORE THAN JUST CONTRACTOR YARDS, WE ARE YOUR HOMETOWN HARDWARE STORES WITH ACCESS TO OVER 100,000 SPECIAL ORDER HARDWARE ITEMS!

16555 State Hwy 136 - La Jara  
**274-5857**  
M-F: 7:30-5:00 - Sat 7:30-12:00  
info@lajtp1.com  
lajaratradingpost.com



Full Range Lumber & Supplies - Engineered Lumber - Paint - Redwood - Treated Lumber - Metal Roofing - Trusses - Fencing  
Sheet Rock - Molding - Sheet Goods - Drywall - Garage Packages - Alfalfa Seed - Insulation - Doors - Windows - Hardware - Tools  
Siding - Plywood - Cement & Block - Energy Related Items - Wood & Gas Stoves - ARXX Concrete Forms - Lawn & Garden  
Plumbing - Electrical - Tool Repair - Valspar Paint - Pneumatic Tools & Nails - Composite Decking - Grass Seed  
Marvin Windows & Doors - Kitchen Cabinets - Countertops - Welding Supplies - STIHL Chainsaws - Vinyl Fencing



1403 Tremont Ave - Alamosa  
**587-0338**  
Mon - Sat 7:30 - 5:30  
info@alamosabuildingsupply.com  
alamosabuildingsupply.com

Full Range Lumber & Supplies - Engineered Lumber - Paint - Redwood - Treated Lumber - EPDM Roofing  
Metal Roofing - Trusses - Fencing - Sheet Rock - Molding - Sheet Goods - Drywall - Garage Packages - Alfalfa Seed  
Insulation - Doors - Windows - Hardware - Tools - Siding - Plywood - Cement & Block - Energy Related Items  
Wood & Gas Stoves - ARXX Concrete Forms - Lawn & Garden - Plumbing - Electrical - Tool Repair - Vinyl Fencing - Valspar Paint  
Pneumatic Tools & Nails - Composite Decking - Grass Seed - Marvin Windows & Doors - Kitchen Cabinets - Countertops

*Free Estimates - We Deliver Valley Wide - Special Orders - Job Site Forklift*

## Museums

*The San Luis Valley is filled with historical treasures! Enjoy a day learning about the Valley's Indian heritage, mining boom days and the role it has played in Colorado's rich legacy.*

**Fort Garland Museum**  
29477 Highway 159 : Fort Garland

**Hazard House Museum**  
807 Pitkin Avenue : Saguache

**Jack Dempsey Museum**  
412 Main Street : Manassa

**Last Chance Mine**  
498 504 Road Bachelor Loop : Creede

**Luther Bean Museum**  
208 Edgemont Blvd : Alamosa

**Oldest Church in Colorado**  
Our Lady of Guadalupe Parish : Antonito



FOR MORE INFORMATION:  
[Visit www.VisitSanLuisValley.com](http://www.visitSanLuisValley.com) or  
scan the QR Code to be directed on your mobile device.

**Rio Grande County Museum**  
925 6th Street, Suite 207 : Del Norte

**Saguache County Museum**  
US Highway 285 : Saguache

**San Luis Cultural Center**  
401 W Church : San Luis

**San Luis Valley Museum**  
401 Hunt Avenue : Alamosa

**Transportation of the West**  
916 First Avenue : Monte Vista

**Underground Mining Museum**  
503 Forest Service Rd #9 : Creede

**Veterans History Center**  
3749 Sherman Ave : Homelake



### The Denver & Rio Grande Railway Historical Foundation

The Foundation was begun by a dedicated group of volunteers headed by Donald H. Shank in 1997 for the purpose of preserving this rail line for the education of all, about the role that the Denver & Rio Grande Railroad and its many successors played in the development of the Upper Rio Grande River Valley. The Histories of Wagon Wheel Gap and Creede were shaped by the development which the Railroad spurred.

The Foundation is a (501c3) non-profit Corp.

Donations are fully tax deductible and are very welcome. They may be directed at one or more of our Programs, or given for our use in general.

#### Future Plans:

"Silver Streak" is our first rail vehicle, and will be the rail-car for our initial excursion program. We are working on operating regular railroad train equipment as soon as additional repairs are made to our track structure. Maintenance of our track and property is a priority item.

Car 21 (Cleveland Cliffs Iron Co. Business Car)

We are in the process of building tracks and platforms to house our 1901 Pullman Business car, used for Special Occasions during summer.

#### The Friends of the Denver & Rio Grande Railway Historical Foundation

Join with other folks who help with a variety of projects to enhance the look and feel of the Foundation's programs and the Railroad's historic and educational excursions each year.



#### A very brief History of the Rail Line:

The new Denver & Rio Grande Railroad runs excursions for the enlightenment and education of the general public on this track which back in 1883 was the original Denver & Rio Grande Railroad - later re-named Denver & Rio Grande Western Railroad.

The line was originally constructed to bring wealthy and famous to the resorts at what is now the 4 U R Ranch at Wagon Wheel Gap. The discovery of Silver and other Minerals further up the valley necessitated the extension of the Railroad to the Creede mining district.

Tracks were laid right up to the bottom of the mines in the canyon beyond the Creede Depot.

Passenger trains served the Creede Branch from Alamosa also carrying the Mail, as well as Packages of various express companies. All of these traditional services had ceased to exist by 1932, and Freight Trains continued to serve Creede (at Wasson) until 1985. After that date, service was cut back to South Fork serving the U. S. Forest Industries Sawmill. In 2001, the sawmill closed and freight service ceased west of Monte Vista, and currently idle freight cars are stored along this track.

#### \* \* Today's Excursions \* \*

The excursions of today run from South Fork along the scenic and rugged Upper Rio Grande River and it's palisades on the way to the three resorts at Wagon Wheel Gap, with special excursions for the dyed - in - the - wool railbuffs all the way up to the "Y" track at Wasson for for an extra fare and another hour of travel time.



**Rail and Raft**

**\* Excursions \***

**Rail up, Float Down!  
Summer Season 2012**

**Historical & Educational  
Scenic Rail & Raft Excursions  
Between**

**South Fork, Colorado  
and Wagon Wheel Gap**

**along the Upper Rio Grande  
River and Palisades**

**See our main folder for other  
Events, Schedules, & Rates  
visit our new website**

**[www.denverandriogranderrailroad.com](http://www.denverandriogranderrailroad.com)**

**Effective May 26th, 2012  
through October 7, 2012**



## 2012 Summer Season

Scenic and Historic Rail Excursions  
depart from South Fork Depot

on State Highway 149 - 1/2 mi North of US 160.  
at 0097 Ponderosa Drive, South Fork CO 81154

### **Regular Schedule: Motor trains:**

(Reservations are Necessary)

***These trips may be customized !***

-----  
**8:30 am (or later) Rail & Raft.**

Daily (7 Days a week)

Lv. South Fork to Wagon Wheel Gap

Put in river at place of your choice...

Return via river - 3:00 pm to 5:00 pm

-----  
**10:00 am - Main Event**

Daily (7 Days a week)

Lv. South Fork to Wagon Wheel Gap

Returning, Stop for Lunch, (Not Incl.)

at Cottonwood Cove or Blue Creek

Put in river at place of your choice...

Return via Rio Grande River - 5:00 pm

-----  
**3:00 pm - Afternoon Delight**

Daily (6/23 thru 8/19)

Lv. South Fork to your put-in spot !

Stop for Blue Bell Ice Cream (Not Inc.)

at Cottonwood Cove - Return via

Rio Grande River about 8:00 pm.

-----  
**EXCURSION RATES**

South Fork to Wagon Wheel Gap:

Adult \$ 29.00, Child (3 to 12) \$ 19.00

Senior (65+) & Active Military \$ 26.00

-----  
**VISIT THE RAILROAD STORE**

**T-SHIRTS & MEMORABILIA**

**RESERVATIONS 719-873-2003**



"Silver Streak" travels over a portion of the original Denver and Rio Grande Railroad founded in the late 1800's. The country and the weather are just as wild today, so we advise bringing a Jacket and being prepared for a possible downpour or even hail. People with disabilities may ride with assistance. Our Motor Car "Silver Streak" is a four wheel rail vehicle originally used to move workmen to various places along the rail line. It has been extensively re-worked for your comfort. The sides are open for your viewing, and the car is equipped with clear drop-down curtains for rain and wind. Silver Streak is Diesel-Hydraulic powered vehicle and moves at approximately 10 mph. It is a one-of-a-kind vehicle. We also "Quicksilver", a smaller Motor Car on certain trains (and on the extended train to Wasson).

There are no Rest Room facilities on board. Rest Rooms are available at the South Fork Depot, and at Palisade Campground and the resorts at Wagon Wheel Gap. Lunch and Snacks are sold in Restaurants at Blue Creek or Cottonwood Cove Resorts - or you are welcome to bring your own. Cottonwood has an outdoor picnic pavilion. Gift shops are in each resort. No smoking is allowed anywhere along the excursion route or in or around the buildings of the railroad or the two participating resorts.

On the Going (Westbound) portion of your trip, "Silver Streak" will traverse land within the Rio Grande National forest and National Wildlife Areas as well as lands owned privately. You will pass through Masonic Park (a private residential community sponsored by the Masons), Collier Wildlife Sanctuary, the "Silver Bridge" over the Rio Grande, Palisade Campground (Where we stop for a rest-room break), and then through the Palisades of the Rio Grande on the way to Wagon Wheel Gap. The car will pass by the old Wagon Wheel Gap Depot, now privately owned. Shortly beyond, is the trestle over the Rio Grande River (2nd crossing) where our excursion will change directions. (Yes, we simply reverse !) Throughout the trip, the history and purposes of the Railway are told by the Conductor/Motorman. Wasson trips continue westward to Wasson Wye (Near Creede) and return. They are designed for the railbuff, and will operate by advance reservation when there are personnel and equipment available.

On the return (Eastbound) portion, we stop at Cottonwood Cove Resort or Blue Creek Lodge for our Lunch/Snack Break. An appropriate length of time is allowed for you to eat and visit the gift shops.

At South Fork visit the 1893 Depot which looks today much the way it did then. The Building has the usual small waiting room, ticket office, and freight rooms that were part of almost all depots of that period. This Building originally was built for the Denver & Rio Grande at Hooper, CO. where it served until the 1950's, when the Valley Line north of Alamosa was abandoned. It was then sold and moved to a farm near Center, CO., where it survived for over 50 years. In 2008 the depot was donated to the Denver & Rio Grande Railway Historical Foundation and placed here in South Fork to provide an authentic passenger depot. Work continues to restore the old depot to it's original look and use.

# ***SCENIC RAIL & RAFT EXCURSIONS***



*FROM SOUTH FORK (DEPOT)*

**All day Float from  
Wagon Wheel Gap  
Depart after 8:30 am,  
Return about 4:30 pm**

---

**Afternoon Float from  
Mile (RR) 306  
Depart 3:00 pm,  
Return about 7:00 pm**

---

**Rail Ride & Rafting through  
beautiful mountain scenery  
along the Upper Rio Grande  
River and the Palisades.**

***RENT YOUR RAFTS  
RESERVE RAIL &  
EQUIPMENT HERE !***

**Rafting trips run Daily  
By Advance reservation**

**Call Alpine Bike**

**719-873-2495**

# **EXHIBIT J**

*(omitted)*

# **EXHIBIT K**

**NONPROFIT**

**ARTICLES OF INCORPORATION**

**OF**

**DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION** ✓  
**A Colorado Nonprofit Corporation**

**THE UNDERSIGNED** persons, under the Colorado Nonprofit Corporation Act  
hereby execute the following Articles of Incorporation:

**ARTICLE I**

The name of the nonprofit corporation is:

**DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION,**

**a Colorado Nonprofit Corporation**

REJECTED.....  
19971079225 M  
\$ 50.00  
SECRETARY OF STATE  
05-19-97 10:39:54

**ARTICLE II**

This corporation shall have perpetual existence.

19971086444 M  
\$ 50.00  
SECRETARY OF STATE  
05-30-97 13:49:45

**ARTICLE III**

The purpose of said corporation shall be to function as a restoration facility and museum  
of vintage and historic railroad equipment.

The general Nature of the business to be transacted by this Corporation shall be:

- a. To purchase and acquire through donation or grant, railroad equipment of all various types and associated memorabilia for historic preservation.
- b. To purchase and acquire a suitable location for the construction of a facility for the restoration, renovation and display of said historic equipment and memorabilia and to acquire such other assets and liabilities to accomplish the purposes of the corporation.
- c. To conduct only non-profit activities, within and without the State of Colorado

without undue restrictions while enjoying all of the general powers of any typical, legally approved museum or restoration facility.

- d. Said corporation is organized exclusively for charitable, educational, and scientific purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future Federal Tax Code.

**ARTICLE IV**

The initial registered office of the corporation shall be 102 1/2 West 18th Street, Durango, County of La Plata, State of Colorado, 81301. The initial registered agent shall be Donald H. Shank, 102 1/2 West 18th Street, Durango, La Plata County, Colorado, 81301. ✓

**ARTICLE V**

The management of this corporation shall be vested in a board of four (4) directors or such greater number as may be set forth from time to time in the bylaws of the corporation. The names and addresses of the persons who are to be the initial directors and who are to serve as directors until the first annual meeting of the members or until their successors be elected and qualified are: ✓

<u>Name</u>	<u>Address</u>
Robert W. Shank	1861 Harriet Drive Clarksville, TN 37040
Donald H. Shank	357 Valle Vista Way Durango, CO 81301
Robert A. Gram	300 West 32nd Street #104 Durango, CO 81301
Gayle A. Shank	357 Valle Vista Way Durango, CO 81301

# **EXHIBIT L**



UNITED STATES OF AMERICA  
RAILROAD RETIREMENT BOARD  
844 NORTH RUSH STREET  
CHICAGO, ILLINOIS 60611-2092

3  
SECRET  
Shank

APR 2 6 2016

GENERAL COUNSEL

Mr. John D. Heffner, Esq.  
Strasburger & Price, LLP  
1700 K. Street, N.W., Suite 640  
Washington, D.C. 20006

Re: Denver & Rio Grande Railway Historical  
Foundation d/b/a Denver & Rio Grande  
Railroad, L.L.C.

Dear Mr. Heffner:

Mr. Henry Rueden forwarded your inquiry regarding the Denver & Rio Grande Railway Historical Foundation d/b/a Denver & Rio Grande Railroad, L.L.C to my office for response. You inquired whether the Railroad Retirement Board has any record that either the Denver & Rio Grande Railway Historical Foundation or the Denver & Rio Grande Railroad, L.L.C ever sought coverage as a rail carrier under the Railroad Retirement Act (RRA) or Railroad Unemployment Insurance Act (RUIA).

The Railroad Retirement Board has no record of coverage for either the Denver & Rio Grande Railway Historical Foundation or the Denver & Rio Grande Railroad, LLC. Additionally, we have no record of coverage for the Denver & Rio Grande Railroad, LLC or the Colorado & Southern Railroad.

I hope that you will find this information helpful.

Sincerely,

Karl T. Blank  
General Counsel

# **EXHIBIT M**

Agency Management & Reports

Benefit Forms & Publications

General Benefit Information

Benefit Online Services

Employer Forms & Publications

Employer Information

Employer Online Services

Financial, Actuarial & Statistical

Genealogy

Legal Information

National RR Investment Trust

News Releases

Office of Inspector General

Public Forms & Publications

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- ▶ [Not a Covered Employer Index](#)
- ▶ [Board Coverage Decision Index](#)
- ▶ [The Board](#)

## Employer Status Determination

### Austin Steam Train Association

#### Board Coverage Decision 11-4

November, 16, 2010

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This is the determination of the Railroad Retirement Board concerning the status of Austin Steam Train Association (ASTA), as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.).

Information regarding ASTA was provided by Ms. Holly Doggett, Executive Director of ASTA, as well as the website of ASTA. In 1956 the Southern Pacific (SP)<sup>1</sup> gave one of its retiring steam engines to the city of Austin, Texas. According to Ms. Doggett, in 1986, the SP closed its operations through Austin, and sold 163 miles of its lines to the city. The lines extend from Giddings, Texas, through Austin, to Burnet, Marble Falls, and Llano (all in Texas). The city of Austin chartered ASTA as a 501(c)(3) nonprofit corporation on July 11, 1989, to operate as a scenic railroad. ASTA's mission is "to preserve, interpret and re-create the first-hand experience of historic steam railroading for the enjoyment and edification of today's families and the generations to come". ASTA leased the engine from the city, and restored the engine, through a privately-financed effort. ASTA acquired passenger cars, and acquired trackage rights over the 33-mile route between Cedar Park and Burnet. Operations began on July 25, 1992. ASTA continues to operate 2-hour excursions from Cedar Park through the Texas hill country to Burnet. It also operates a shorter excursion from Cedar Park to Bertram, Texas. Ms. Doggett also stated that ASTA has trackage rights on the Capitol Metro main line<sup>2</sup>.

ASTA has six employees; all employees perform work related to the operations of the vintage passenger train. ASTA owns the property it is headquartered at in Cedar Park; all employees perform maintenance work on the equipment at this location. No rail carriers do business with ASTA, nor do any rail carriers have a financial interest in ASTA. No individual has a controlling interest in ASTA as well as in a rail carrier, nor is any individual an officer or director of ASTA as well as an officer or director of a rail carrier.

Section 1(a)(1) of the Railroad Retirement Act defines the term "employer," to include

- (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of title 49, United States Code \*\*\*.

A virtually identical definition is found in sections 1(a) and (b) of the Railroad Unemployment Insurance Act (45 U.S.C. §§ 351(a) & (b)).

Section 10501 of Title 49 of the United States Code provides in pertinent part that the Surface Transportation Board has jurisdiction over rail carrier:

\*\*\* transportation in the United States between a place in –

- (A) a State and a place in the same or another State as part of the interstate rail network. [49 U.S.C. § 10501(a)(2)(A).]

The rail service provided by ASTA may be characterized as a tourist or excursion railroad operated solely for recreational and amusement purposes. ASTA does not transport passengers from a place in one State to a place in the same or another State as part of the interstate rail network. Rather, it provides excursion service between two points entirely within one State. ASTA does not interchange with any railroad, and does not "through-ticket" any passengers or freight onto any other rail carrier. Therefore, under section 10501 (a) (2)(A), above, ASTA would not be subject to Surface Transportation Board jurisdiction and would therefore also not fall within the definition of "employer" set out in section 1(a)(1)

(i) of the Railroad Retirement Act. Based upon the evidence of record, we find that the Austin Steam Train Association is not an employer under the RRA and the RUIA.

Original signed by:

Michael S. Schwartz

V.M. Speakman, Jr.

Jerome F. Kever

<sup>1</sup> According to ASTA's website, the engine was used on the Houston & Central subsidiary of the Southern Pacific Company (SPC). SPC, B.A. No. 1713, merged into Southern Pacific Transportation Company on November 25, 1969. Southern Pacific Transportation Company (maintaining B.A. No. 1713), was covered until February 1, 1998, when it merged with the Union Pacific (UP), B.A. No. 1715.

<sup>2</sup> "Capitol Metro" is the Capitol Metropolitan Transportation Authority, Austin's bus and metrorail system. According to agency files, the investigation into Capitol Metro's status as an employer under the Acts was closed September 8, 1998.

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Date posted: 11/24/2010  
Date updated: 11/17/2010



USA.gov

U.S. Railroad Retirement Board  
844 North Rush Street  
Chicago IL, 60611-2092

Toll Free: (877) 772-5772  
TTY: (312) 751-4701  
Directory: (312) 751-4300  
[Locate an RRB office near you](#)



**EMPLOYER STATUS DETERMINATION**  
**Branson Scenic Railway, Inc.**

This is the determination of the Railroad Retirement Board concerning the status of Branson Scenic Railway, Inc. (BSR) as an employer under the Railroad Retirement Act (45 U.S.C. §231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. §351 et seq.) (RUIA).

Information regarding BSR was provided by Thomas L. Johnson, its President. Mr. Johnson stated that BSR currently has 20 employees which include four full time permanent employees and sixteen seasonal employees. BSR's employees began services on July 30, 1993. BSR began operations on July 31, 1993. BSR contracts with Missouri and Northern Arkansas Railroad (M&NA) to operate over the 20 miles of M&NA's trackage, departing from Branson, Missouri, with no intermediate stops. Under contract, M&NA provides two engineers to run the train. M&NA also provides all dispatching, track inspection and maintenance.

Mr. Johnson stated that BSR operates a passenger tourist train. Presently, its service component consists of an intra-state tourist railway, offering passenger excursions from Branson, Missouri traveling north or south roundtrip. He stated that the only formal relationship BSR has with a railroad is the contract agreement with M&NA. BSR does not interchange with other railroads.

Section 1(a)(1) of the RRA defines an "employer" to include:

- (i) any express company, sleeping car company, and carrier by railroad, subject to subchapter I of chapter 105 of Title 49.

Section 1 of the RUIA contains essentially the same definition.

Subchapter I of chapter 105 of Title 49 is the portion of the Interstate Commerce Act which sets forth the provisions governing the jurisdiction of the Interstate Commerce Commission (ICC) over rail transportation. It provides in pertinent part that the ICC has jurisdiction over transportation by rail carrier to the extent that the transportation is in the United States and is between a place in a State and a place in another State (49 U.S.C. §10501(a)(2)(A)). The Interstate Commerce Act provides specifically, in pertinent part, that:

- (b) The Commission does not have jurisdiction under subsection (a) of this section over--

- (1) the transportation of passengers or property, or the receipt, delivery, storage, or handling of property, entirely in a State (other than the District of Columbia) and not transported between a place in the United States and a place in a foreign country...[49 U.S.C. §10501(b)(1)].

**Branson Scenic Railway, Inc.**

In this case, BSR is a carrier by rail since it operates a passenger railway. However, BSR does not transport passengers from a place in one State to a place in another State. Rather, it provides excursion service roundtrip entirely within one State. BSR does not interchange with any railroad. BSR's operation of its tourist railroad is not, therefore, subject to the ICC's jurisdiction.

Because it is not a carrier by rail which is subject to the ICC jurisdiction, it is determined that Branson Scenic Railway, Inc. is not an employer under the RRA and the RUIA.

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Glen L. Bower

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V. M. Speakman, Jr.

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Jerome F. Kever

CCCook:SABartholow:KDJohnson:kdj:ik  
BSR2911.COV  
C. 2911-94

**EMPLOYER STATUS DETERMINATION**  
**4 States Railway Service, Inc., d/b/a**  
**West Chester Railroad Co. (WCR)**

This is a determination of the Railroad Retirement Board concerning the status of 4 States Railway Service, Inc., d/b/a West Chester Railroad Co. (WCR) as an employer under the Railroad Retirement Act (45 U.S.C. § 231 et seq.) (RRA) and the Railroad Unemployment Insurance Act (45 U.S.C. § 351 et seq.) (RUIA).

In Surface Transportation Board Finance Docket No. 33460, decided September 30, 1997, WCR filed a verified notice of exemption to sublease and operate 6.405 miles of rail line from the Borough of West Chester (Borough) between milepost 27.4 +/-, at Station 1386+06, in West Chester, Chester County, PA, and milepost 20.995+/, at Glen Mills Station, Glen Mills, Delaware County, PA. A footnote in the STB decision stated that the owner of the property is the Southeast Pennsylvania Transportation Authority (SEPTA) and that on December 31, 1996, SEPTA leased the line to the Borough for tourist railroad operations.

Mr. John K. Fiorilla, an attorney with the law firm Watson, Stevens, Fiorilla, & Rutter, provided additional information regarding WCR. According to Mr. Fiorilla, WCR operates a tourist railroad which operates seasonally and does not carry freight at this time. WCR operates its passenger excursion trains on 7.2 miles of rail line between the Borough of West Chester, and Glen Mills, PA. According to Mr. Fiorilla, WCR began operations on September 21, 1997 and currently has no employees. Mr. Joseph C. Giacchino is the Chief Executive Officer of WCR. Mr. Giacchino, Mr. Donald W. Callender, and Mr. Melvin E. Small are the stockholders of WCR.

Section 1(a)(1) of the RRA defines the term "employer" to include:

- (i) any carrier by railroad subject to the jurisdiction of the Surface Transportation Board under Part A of subtitle IV of Title 49

\*\*\*\*\*

Section 1 of the RUIA contains the same definition.

The information summarized above indicates that WCR is a carrier by rail, since it operates a passenger railway. However, WCR does not operate, and has never operated, as a common rail carrier in interstate commerce. Rather, it provides excursion service solely within the State of Pennsylvania. Thus, it is not within the jurisdiction of the Surface Transportation Board. See, 49 U.S.C. 10501(a)(2)(A) (the STB has jurisdiction over transportation in a state and a place in the same or another state that is part of interstate transportation).

The Board finds that since 4 States Railway Service, Inc., d/b/a West Chester Railroad Co. does not perform service as a rail common carrier in interstate commerce, it is not an employer under the RRA and the RUIA.

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V. M. Speakman, Jr.

Jerome F. Kever

# **EXHIBIT N**

1:24 PM  
 06/06/12  
 Accrual Basis

**Denver & Rio Grande Railway Historical Foundation**  
**Profit & Loss**  
 January through December 2009

	Jan - Dec 09
<b>Income</b>	
<b>Pt. I - Revenue / Income</b>	
(1) Contributions, Gifts-Grants	
Cash Contributions	1,610.00
Contributed Support - Other	
Gifts in kind - Assets	50,000.00
<b>Total Contributed Support - Other</b>	<u>50,000.00</u>
<b>Total (1) Contributions, Gifts-Grants</b>	51,610.00
(2) Program Service Revenue	
D&RGRR Psgr & Frt Revenue	23,798.85
Railroad Gift Shop	
Merchandise Sales	252.00
<b>Total Railroad Gift Shop</b>	<u>252.00</u>
<b>Total (2) Program Service Revenue</b>	24,050.85
(6) Special Events Gross Rev.	1,655.00
Other Revenues	
Miscellaneous Revenue	39,561.08
<b>Total Other Revenues</b>	<u>39,561.08</u>
<b>Total Pt. I - Revenue / Income</b>	<u>116,876.93</u>
<b>Total Income</b>	116,876.93
<b>Expense</b>	
<b>Pt. II - Expenses</b>	
(13) Professional & Contracted	
Accounting Fees	2,500.00
Legal & Professional Services	2,360.50
<b>Total (13) Professional &amp; Contracted</b>	<u>4,860.50</u>
(14) Occupancy Rent Util Maint.	
Building Maintenance	
Buildings - Repairs & Material	1,284.43
Sanitary Services (Toilets)	112.00
Telephone & Telecommunications	3,772.82
Utilities	335.08
<b>Total Building Maintenance</b>	<u>5,504.33</u>
Maintenance of Track	
MW - Contracted Work	2,540.00
MW - Equipment - Fuel & Oil	2,528.00
MW - Equipment Repair	1,854.89
MW - Temporary Labor	2,013.00
MW - Track Materials	124.52
<b>Total Maintenance of Track</b>	<u>9,060.21</u>
<b>Total (14) Occupancy Rent Util Maint.</b>	14,564.54
(15) Pntng Publictns Pstg Shpg	
Advertising expenses	
Travel, Meetings & Promo.	768.49
Advertising expenses - Other	152.05
<b>Total Advertising expenses</b>	<u>920.54</u>
<b>Total (15) Pntng Publictns Pstg Shpg</b>	920.54

1:21 PM

**Denver & Rio Grande Railway Historical Foundation**  
**Profit & Loss**  
 January through December 2009

06/05/12

Accrual Basis

	Jan - Dec 09
<b>(17) Other Expenses</b>	
Administrative & Office Expense	
Bank Service Charges	34.96
Fuel - Admin & Other	465.60
Insurance - Liability	3,704.02
Interest & Finance Charges	1,928.81
Office Supplies	489.21
Organizational (corp) expenses	53.75
<b>Total Administrative &amp; Office Expense</b>	<b>6,676.35</b>
Depreciation In Service Asset	43,539.94
Equipment - Maintenance	
Fuel - Locomotives	223.48
Psgr & Freight Equipment Maint.	6,052.03
<b>Total Equipment - Maintenance</b>	<b>6,275.51</b>
Miscellaneous Expenses	0.00
Taxes (Other Than Payroll)	
Land & Property Taxes	7,102.71
Taxes - other	205.00
<b>Total Taxes (Other Than Payroll)</b>	<b>7,308.71</b>
<b>Total (17) Other Expenses</b>	<b>63,800.51</b>
<b>Total P&amp;LII - Expenses</b>	<b>84,146.09</b>
<b>Total Expense</b>	<b>84,146.09</b>
<b>Net Income</b>	<b>32,730.64</b>

1:22 PM  
06/05/12  
Accrual Basis

**Denver & Rio Grande Railway Historical Foundation**  
**Profit & Loss**  
January through December 2010

	Jan - Dec 10
<b>Income</b>	
Other Income	50,011.71
<b>Pt. I - Revenue / Income</b>	
(1) Contributions, Gifts-Grants	
Cash Contributions	1,464.00
Contributed Support - Other	
Donated Other Services	2,878.79
Gifts in kind - Assets	89,450.00
<b>Total Contributed Support - Other</b>	92,328.79
<b>Total (1) Contributions, Gifts-Grants</b>	93,792.79
(2) Program Service Revenue	
D&RGRR Psgr & Frt Revenue	
Ticket Returns & Allowances	-99.00
D&RGRR Psgr & Frt Revenue - Other	32,023.50
<b>Total D&amp;RGRR Psgr &amp; Frt Revenue</b>	31,924.50
<b>Total (2) Program Service Revenue</b>	31,924.50
Other Revenues	
Miscellaneous Revenue	15.24
Property Lease & Rental Income	9,174.50
<b>Total Other Revenues</b>	9,189.74
<b>Total Pt. I - Revenue / Income</b>	134,907.03
<b>Total Income</b>	184,918.74
<b>Expense</b>	
<b>Pt. II - Expenses</b>	
(13) Professional & Contracted	
Accounting Fees	2,500.00
Legal & Professional Services	10,716.41
<b>Total (13) Professional &amp; Contracted</b>	13,216.41
(14) Occupancy Rent Util Maint.	
Building Maintenance	
Buildings - Repairs & Material	798.51
Sanitary Services (Toilets)	2,166.00
Telephone & Telecommunications	3,305.38
Utilities	483.76
<b>Total Building Maintenance</b>	6,753.65
Maintenance of Track	
MW - Contracted Work	15,992.68
MW - Equipment - Fuel & Oil	3,063.25
MW - Equipment Repair	3,716.60
MW - Rental Equipment Cost.	566.80
MW - Track Materials	9,882.91
<b>Total Maintenance of Track</b>	33,202.22
<b>Total (14) Occupancy Rent Util Maint.</b>	39,955.87
(15) Pntng Publictns Pstg Shpg	
Advertising expenses	
Travel, Meetings & Promo.	1,463.14
Advertising expenses - Other	499.86
<b>Total Advertising expenses</b>	1,963.00
<b>Total (15) Pntng Publictns Pstg Shpg</b>	1,963.00

1:22 PM

**Denver & Rio Grande Railway Historical Foundation**  
**Profit & Loss**  
 January through December 2010

06/05/12

Accrual Basis

	Jan - Dec 10
<b>(17) Other Expenses</b>	
<b>Administrative &amp; Office Expense</b>	
Bank Service Charges	1,139.23
Dues & Subscriptions	442.50
Fuel - Admin & Other	41.00
Insurance - Liability	5,870.74
Interest & Finance Charges	51.90
Office Supplies	452.72
<b>Total Administrative &amp; Office Expense</b>	7,998.09
<b>Car 21 Program</b>	12,084.10
<b>Equipment - Maintenance</b>	
Fuel - Locomotives	318.75
Pegr & Freight Equipment Maint.	2,939.22
<b>Total Equipment - Maintenance</b>	3,257.97
<b>Miscellaneous Expenses</b>	515.16
<b>Taxes (Other Than Payroll)</b>	
Land & Property Taxes	5,496.05
Taxes - other	14.40
<b>Total Taxes (Other Than Payroll)</b>	5,510.45
<b>Total (17) Other Expenses</b>	29,345.77
<b>Total Pt.II - Expenses</b>	84,481.05
<b>Total Expense</b>	84,481.05
<b>Net Income</b>	100,437.69

1:23 PM

06/05/12

Accrual Basis

**Denver & Rio Grande Railway Historical Foundation**  
**Profit & Loss**  
 January through December 2011

	Jan - Dec 11
<b>Income</b>	
<b>Other Income</b>	42,975.00
<b>Pt. I - Revenue / Income</b>	
<b>(1) Contributions, Gifts-Grants</b>	
Cash Contributions	2,444.00
Contributed Support - Other	
Donated Other Services	2,372.00
Gifts in kind - Assets	7,840.00
<b>Total Contributed Support - Other</b>	10,212.00
<b>Total (1) Contributions, Gifts-Grants</b>	12,656.00
<b>(2) Program Service Revenue</b>	
D&RGRR Psgr & Frt Revenue	
Ticket Returns & Allowances	-81.00
D&RGRR Psgr & Frt Revenue - Other	42,435.05
<b>Total D&amp;RGRR Psgr &amp; Frt Revenue</b>	42,354.05
<b>Railroad Gift Shop</b>	
Merchandise Sales	1,053.77
<b>Total Railroad Gift Shop</b>	1,053.77
<b>Total (2) Program Service Revenue</b>	43,407.82
<b>(6) Special Events Gross Rev.</b>	5,452.00
<b>Other Revenues</b>	
Miscellaneous Revenue	9.21
Property Lease & Rental Income	5,510.25
<b>Total Other Revenues</b>	5,519.46
<b>Total Pt. I - Revenue / Income</b>	67,035.28
<b>Total Income</b>	110,010.28
<b>Expense</b>	
<b>Pt. II - Expenses</b>	
<b>(13) Professional &amp; Contracted</b>	
Accounting Fees	1,350.00
Legal & Professional Services	5,690.00
<b>Total (13) Professional &amp; Contracted</b>	7,040.00
<b>(14) Occupancy Rent Util Maint.</b>	
<b>Building Maintenance</b>	
Bldg Contracted Work	500.00
Buildings - Repairs & Material	8,019.52
Sanitary Services (Toilets)	126.00
Telephone & Telecommunications	2,881.94
Utilities	618.71
<b>Total Building Maintenance</b>	12,146.17
<b>Maintenance of Track</b>	
MW - Contracted Work	70.00
MW - Equipment - Fuel & Oil	5,083.17
MW - Equipment Repair	7,399.80
MW - Mileage Reimbursement	8,170.00
MW - Rental Equipment Cost.	1,652.95
MW - Track Materials	4,452.50
<b>Total Maintenance of Track</b>	26,828.42
<b>Real Estate Taxes</b>	5,053.16
<b>Total (14) Occupancy Rent Util Maint.</b>	44,027.75

1:23 PM

**Denver & Rio Grande Railway Historical Foundation**  
**Profit & Loss**  
 January through December 2011

06/05/12

Accrual Basis

	Jan - Dec 11
<b>(15) Pntng Publictns Pstg Shlpg</b>	
Advertising expenses	4,633.21
Travel, Meetings & Promo.	159.35
Advertising expenses - Other	4,473.86
<b>Total Advertising expenses</b>	<b>4,792.56</b>
<b>Total (15) Pntng Publictns Pstg Shlpg</b>	<b>4,792.56</b>
<b>(17) Other Expenses</b>	
<b>Administrative &amp; Office Expense</b>	
Bank Service Charges	1,623.55
Dues & Subscriptions	102.50
Insurance - Liability	6,215.50
Interest & Finance Charges	164.79
Office Supplies	685.38
Organizational (corp) expenses	104.75
<b>Total Administrative &amp; Office Expense</b>	<b>8,896.47</b>
<b>Equipment - Maintenance</b>	
Fuel - Locomotives	1,642.00
Pagr & Freight Equipment Maint.	3,028.98
<b>Total Equipment - Maintenance</b>	<b>4,670.98</b>
<b>Miscellaneous Expenses</b>	
RR Gift Shop - COGS	272.00
Miscellaneous Expenses - Other	2,770.28
<b>Total Miscellaneous Expenses</b>	<b>3,042.28</b>
<b>Taxes (Other Than Payroll)</b>	
Land & Property Taxes	735.97
Taxes - other	462.44
<b>Total Taxes (Other Than Payroll)</b>	<b>1,198.41</b>
<b>Total (17) Other Expenses</b>	<b>17,808.14</b>
<b>Total Pt.II - Expenses</b>	<b>73,668.45</b>
<b>Total Expense</b>	<b>73,668.45</b>
<b>Net Income</b>	<b>36,341.83</b>

Form **990-EZ**

**Short Form  
Return of Organization Exempt From Income Tax**

OMB No. 1545-1160

**2009**

Department of the Treasury  
Internal Revenue Service

Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)  
Sponsoring organizations of donor advised funds and controlling organizations as defined in section 512(b)(13) must file Form 990. All other organizations with gross receipts less than \$500,000 and total assets less than \$1,250,000 at the end of the year may use this form.  
The organization may have to use a copy of this return to satisfy state reporting requirements.

**A** For the 2009 calendar year, or tax year beginning and ending

<p><b>B</b> Check if applicable:</p> <p><input type="checkbox"/> Address change</p> <p><input type="checkbox"/> Name change</p> <p><input type="checkbox"/> Initial return</p> <p><input type="checkbox"/> Terminated</p> <p><input type="checkbox"/> Amended return</p> <p><input type="checkbox"/> Application pending</p>	<p>Please use IRS label or print or type. See Specific Instructions.</p>	<p><b>C</b> Name of organization <b>DENVER &amp; RIO GRANDE RAILWAY HISTORICAL FOUNDATION</b></p> <p>Number and street (or P.O. box, if mail is not delivered to street address) Room/suite <b>20 N. BROADWAY STREET</b></p> <p>City or town, state or country, and ZIP + 4 <b>MONTE VISTA, CO 81144</b></p>	<p><b>D</b> Employer identification number <b>84-1433680</b></p> <p><b>E</b> Telephone number <b>719-852-2000</b></p> <p><b>F</b> Group Exemption Number</p>
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Section 501(c)(3) organizations and 4947(a)(1) nonexempt charitable trusts must attach a completed Schedule A (Form 990 or 990-EZ).  
**G** Accounting method:  Cash  Accrual  
Other (specify):

**I** Website: **NONE** **H** Check  if the organization is not required to attach Schedule B (Form 990, 990-EZ, or 990-PF).

**J** Tax-exempt status (check only one) -  501(c)(3) (Insert no.)  4947(a)(1) or  527

**K** Check  if the organization is not a section 509(a)(3) supporting organization and its gross receipts are normally not more than \$25,000. A Form 990-EZ or Form 990 return is not required, but if the organization chooses to file a return, be sure to file a complete return.

**L** Add lines 5b, 6b, and 7b, to line 9 to determine gross receipts; if \$500,000 or more, file Form 990 instead of Form 990-EZ ..... \$ **116,877.**

**Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances** (See the instructions for Part I.)

	<b>1</b> Contributions, gifts, grants, and similar amounts received			<b>51,610.</b>
	<b>2</b> Program service revenue including government fees and contracts			<b>65,267.</b>
	<b>3</b> Membership dues and assessments			
	<b>4</b> Investment income			
Revenue	<b>5a</b> Gross amount from sale of assets other than inventory	<b>5a</b>		
	<b>b</b> Less: cost or other basis and sales expenses	<b>5b</b>		
	<b>c</b> Gain or (loss) from sale of assets other than inventory (Subtract line 5b from line 5a)	<b>5c</b>		
	<b>6</b> Special events and activities (complete applicable parts of Schedule G). If any amount is from gaming, check here <input type="checkbox"/>			
	<b>a</b> Gross revenue (not including \$ of contributions reported on line 1)	<b>6a</b>		
	<b>b</b> Less: direct expenses other than fundraising expenses	<b>6b</b>		
	<b>c</b> Net income or (loss) from special events and activities (Subtract line 6b from line 6a)	<b>6c</b>		
	<b>7a</b> Gross sales of inventory, less returns and allowances	<b>7a</b>		
	<b>b</b> Less: cost of goods sold	<b>7b</b>		
	<b>c</b> Gross profit or (loss) from sales of inventory (Subtract line 7b from line 7a)	<b>7c</b>		
	<b>8</b> Other revenue (describe )			
	<b>9</b> Total revenue. Add lines 1, 2, 3, 4, 5c, 6c, 7c, and 8			<b>116,877.</b>
Expenses	<b>10</b> Grants and similar amounts paid (attach schedule)	<b>10</b>		
	<b>11</b> Benefits paid to or for members	<b>11</b>		
	<b>12</b> Salaries, other compensation, and employee benefits	<b>12</b>		
	<b>13</b> Professional fees and other payments to independent contractors	<b>13</b>		<b>4,860.</b>
	<b>14</b> Occupancy, rent, utilities, and maintenance	<b>14</b>		<b>14,564.</b>
	<b>15</b> Printing, publications, postage, and shipping	<b>15</b>		<b>921.</b>
	<b>16</b> Other expenses (describe <b>SEE STATEMENT 1</b> )	<b>16</b>		<b>63,801.</b>
	<b>17</b> Total expenses. Add lines 10 through 16	<b>17</b>		<b>84,146.</b>
Net Assets	<b>18</b> Excess or (deficit) for the year (Subtract line 17 from line 9)	<b>18</b>		<b>32,731.</b>
	<b>19</b> Net assets or fund balances at beginning of year (from line 27, column (A)) (must agree with end-of-year figure reported on prior year's return)	<b>19</b>		<b>291,450.</b>
	<b>20</b> Other changes in net assets or fund balances (attach explanation)	<b>20</b>		
	<b>21</b> Net assets or fund balances at end of year. Combine lines 18 through 20	<b>21</b>		<b>324,181.</b>

**Part II Balance Sheets.** If Total assets on line 25, column (B) are \$1,250,000 or more, file Form 990 instead of Form 990-EZ. (See the instructions for Part II.)

			(A) Beginning of year		(B) End of year
<b>22</b>	Cash, savings, and investments		<b>843.</b>	<b>22</b>	<b>5,705.</b>
<b>23</b>	Land and buildings		<b>701,004.</b>	<b>23</b>	<b>701,004.</b>
<b>24</b>	Other assets (describe <b>OTHER DEPRECIABLE ASSETS</b> )		<b>83,256.</b>	<b>24</b>	<b>141,675.</b>
<b>25</b>	Total assets		<b>785,103.</b>	<b>25</b>	<b>848,384.</b>
<b>26</b>	Total liabilities (describe <b>SEE STATEMENT 2</b> )		<b>493,653.</b>	<b>26</b>	<b>524,203.</b>
<b>27</b>	Net assets or fund balances (line 27 of column (B) must agree with line 21)		<b>291,450.</b>	<b>27</b>	<b>324,181.</b>

**Return of Organization Exempt From Income Tax**  
Under section 501(c), 527, or 4947(a)(1) of the Internal Revenue Code (except black lung benefit trust or private foundation)

Department of the Treasury  
Internal Revenue Service

The organization may have to use a copy of this return to satisfy state reporting requirements.

**A** For the 2010 calendar year, or tax year beginning \_\_\_\_\_ and ending \_\_\_\_\_

**B** Check if applicable:  
 Address change  
 Name change  
 Initial return  
 Terminated  
 Amended return  
 Application pending

**C** Name of organization  
**DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION**  
 Doing Business As \_\_\_\_\_  
 Number and street (or P.O. box if mail is not delivered to street address) Room/suite  
**20 N. BROADWAY STREET**  
 City or town, state or country, and ZIP + 4  
**MONTE VISTA, CO 81144**

**D** Employer identification number  
**84-1433680**

**E** Telephone number  
**719-852-2000**

**G** Gross receipts **182,040.**

**H(a)** Is this a group return for affiliates?  Yes  No  
**H(b)** Are all affiliates included?  Yes  No  
 If "No," attach a list. (see instructions)  
**H(c)** Group exemption number ▶ \_\_\_\_\_

**I** Tax-exempt status:  501(c)(3)  501(c)( ) (insert no.)  4947(a)(1) or  527

**J** Website: **NONE**

**K** Form of organization:  Corporation  Trust  Association  Other ▶ \_\_\_\_\_

**L** Year of formation: **1997** **M** State of legal domicile: **CO**

Part I Summary		Prior Year	Current Year
Activities & Governance	1 Briefly describe the organization's mission or most significant activities: <b>TO PRESERVE HISTORIC RAILROAD AND PUBLIC RAILROAD EDUCATION.</b>		
	2 Check this box <input type="checkbox"/> if the organization discontinued its operations or disposed of more than 25% of its net assets.		
	3 Number of voting members of the governing body (Part VI, line 1a) .....	3	4
	4 Number of independent voting members of the governing body (Part VI, line 1b) .....	4	4
	5 Total number of individuals employed in calendar year 2010 (Part V, line 2a) .....	5	0
	6 Total number of volunteers (estimate if necessary) .....	6	0
	7 a Total unrelated business revenue from Part VIII, column (C), line 12 .....	7a	9,174.
b Net unrelated business taxable income from Form 990-T, line 34 .....	7b	0.	
Revenue	8 Contributions and grants (Part VIII, line 1h) .....	0.	90,929.
	9 Program service revenue (Part VIII, line 2g) .....	0.	81,937.
	10 Investment income (Part VIII, column (A), lines 3, 4, and 7d) .....	0.	0.
	11 Other revenue (Part VIII, column (A), lines 5, 6d, 8c, 9c, 10c, and 11e) .....	0.	9,174.
	12 Total revenue - add lines 8 through 11 (must equal Part VIII, column (A), line 12) .....	0.	182,040.
Expenses	13 Grants and similar amounts paid (Part IX, column (A), lines 1-3) .....	0.	0.
	14 Benefits paid to or for members (Part IX, column (A), line 4) .....	0.	0.
	15 Salaries, other compensation, employee benefits (Part IX, column (A), lines 5-10) .....	0.	0.
	16a Professional fundraising fees (Part IX, column (A), line 11e) .....	0.	0.
	b Total fundraising expenses (Part IX, column (D), line 25) ▶ .....	0.	0.
	17 Other expenses (Part IX, column (A), lines 11a-11d, 11f-24f) .....	0.	153,956.
	18 Total expenses. Add lines 13-17 (must equal Part IX, column (A), line 25) .....	0.	153,956.
19 Revenue less expenses. Subtract line 18 from line 12 .....	0.	28,084.	
Net Assets or Fund Balances	20 Total assets (Part X, line 16) .....	Beginning of Current Year 848,384.	End of Year 921,822.
	21 Total liabilities (Part X, line 26) .....	524,203.	569,557.
	22 Net assets or fund balances. Subtract line 21 from line 20 .....	324,181.	352,265.

**Part II Signature Block**

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer (other than officer) is based on all information of which preparer has any knowledge.

**Sign Here**  
 Signature of officer \_\_\_\_\_ Date \_\_\_\_\_  
**KENNETH F. COOMBS, TREASURER**  
 Type or print name and title

**Paid Preparer Use Only**  
 Print/Type preparer's name **JAMES BOWERS** Preparer's signature *James Bowers* Date **9/15/11** Check if self-employed  PTIN \_\_\_\_\_  
 Firm's name ▶ **BOWERS & COMPANY CPAS PLLC** Firm's EIN ▶ \_\_\_\_\_  
 Firm's address ▶ **1200 AXA TOWER I 100 MADISON STREET SYRACUSE, NY 13202** Phone no. **315-234-1100**

# **EXHIBIT O**

# DENVER & RIO GRANDE RAILROAD

## AMENDED EQUIPMENT INVENTORY

AS OF JANUARY 1, 2012

<u>ITEM</u>	<u>DESCRIPTION</u>	<u>QUANTITY</u>
<b><u>Motive Power</u></b>		
	<b>1942 G.E. 44 ton former D&amp;RGW #40 -- for static display</b>	1
	1952 G.E. 44 ton former Utah Central #1244 - needs head gaskets to operate	1 *
	1979 G.E. B30-7 3,000 h.p. former Southern Pacific #7863 -- operable	1 *
	1920 Alco 4-6-2 Pacific steam locomotive former FEC #148 -- partially rebuilt	1 *
<b><u>Rolling Stock -- Passenger &amp; Non-Revenue</u></b>		
	<b>1901 Pullman Palace Car #21 -- Museum piece</b>	1
	<b>1942 Pullman built D&amp;RGW Caboose #01423 -- fully operational</b>	1
	<b>1939 Budd Stainless Round-end Observation Car PPCX-6401</b>	1
	1958 Pullman built D&RGW Caboose #01484 -- fully operational	1 *
	1967 Budd Stainless Railway Post Office Car (Concession Car) D&RG #5904	1 *
	<b>1924 Pullman Business Car -- AT&amp;SF Car 36 -- Static office and quarters</b>	1
	<b>1920's CN Pullman/Sleeper/Diner "WHITECOURT" -- located in Strasburg</b>	1
	1929 Pullman Private Car "FRIENDSHIP"	1 *
<b><u>Rolling Stock -- Freight</u></b>		
	<b>D&amp;RGW Box Car - 50' double door - operable -- located in Monte Vista, CO</b>	1
	<b>D&amp;RGW Box Car - 50' double door -- operable -- located in Monte Vista, CO</b>	1
	<b>D&amp;RGW Gondola - 60' -- operable -- located in Monte Vista, CO</b>	1
	<b>D&amp;RG Bulkhead Flat Car #2359 50' -- operable -- located in Monte Vista, CO</b>	1
	<b>D&amp;RG Mill Gondola Car #0132 65' -- operable -- friction bearings -- Monte Vista</b>	1

**D&RG Flat Car #2304 - 50' – operable – friction bearings – located in Monte Vista 1**

**UP Box Car #361139 – 60' double door – operable – storage in Monte Vista 1**

Maintenance-Of-Way Equipment

Motor Cars and Trailers

**D&RG RR MOW – 007, 14 person passenger vehicle – diesel powered – hydraulic drive  
W/air brakes, lights – in regular service as “Silver Streak”**

**D&RG RR MOW – 008, Fairmont A-8 Motor Car – Aluminum bodied passenger vehicle – in  
regular service as “Quicksilver”**

**Fairmont MT-19 Motor Car – 2 man car – restored – in service 1**

**Fairmont A-4 Motor Car – gang car - needs complete rebuild – restorable 1**

**Fairmont A-5 Motor Car – gang car – needs complete rebuild – restorable 1**

**Fairmont TT – Trailer # T0001 – new 1 \***

**Fairmont TT – Trailer # T0002 – new – w/fire fighting tank and pump 1 \***

**Fairmont TT – Trailer # T0100 – w/weed sprayer tank 1**

**Fairmont TT – Trailer # T0200 – 1 \***

**Fairmont TT – Trailer frames only – one heavy duty – one light duty 2**

Track Maintenance Machinery

**Fairmont Model “A” Automatic Spiker/Auto-gauger – operable - in use 1**

**Nordberg Model “B” Automatic Spiker/Auto-gauger – operable – in use 1**

**Canon/Tamper Track Scarifier – needs repairs to be operable 1**

**Kershaw B-26 Ballast Regulator w/power broom – needs work to be operable 1**

**Racine Rail Anchor Machine – operable 1 \***

**Canon/Tamper Mark II Track Tamper w/torsion beam and dollies – bad motor 1**

**Nordberg Power Spike Puller – operable – in use 1**

Power Track Wrench w/new motor, needs new clutch	1	*
RMC Zapper Power Spiker – parts source	1	
Holley Pneumatic Spike Carrier w/air brakes and dump – operable	1	*
<b>Power Rail Plate Lifter – operable</b>	1	
<b>Rail Grinder – electric – operable</b>	1	
<b>Racine Powered Rail Saws – operable – in use</b>	2	
<b>Stumec Powered Rail Drills – operable – in use</b>	2	
<b>Axson Tie Inserter – rebuildable</b>	1	
<b>Axson Tie Inserters – inoperable – parts units</b>	2	
<b>Fairmont W115-B-1-1 Tie Remover – rebuildable</b>	1	
<b>Fairmont W115-B-1-1 Tie Remover – inoperable – parts unit</b>	1	
<b>Axson Rail Anchor Machines – inoperable – parts</b>	3	
<b>Spare Battery Boxes – new – used on all machines to secure battery</b>	3	
<u>Track Tools and Components</u>		
<b>65# and 90# surplus rail in 30', 33', and 39' lengths</b>	several	
<b>65# tie plates – one pallet</b>	300	
<b>Bridge Timber bolts - 55 gallon drum</b>	1	
<b>Track Spikes – 55 gallon drums</b>	8	
<b>Tie Plugs – wooden – bundles</b>	numerous	
<b>Switch Stands</b>	6	
<b>65# angle bars – good used – all six bolt</b>	98	
<b>Assorted Track Tools – track bars, angle bar wrenches, etc</b>	numerous	
<b>Rail Drill Bits – New – large assortment</b>	numerous	

<b>Welding Rod – New - in sealed cans</b>	<b>15</b>	
<b>Track Jacks – for lifting rail/track assembly</b>	<b>8</b>	
<b>Rail Benders – used to curve rail</b>	<b>2</b>	
<b>Rail Joint Tighteners – tighten rail joint gap</b>	<b>4</b>	
<b>Pick Heads and Spike Mauls</b>	<b>numerous</b>	
<b>Rail Tongs – two-man manual lift</b>	<b>numerous</b>	
<b>Crane Tongs – for use with crane or back-hoe</b>	<b>1</b>	
<b>Chain Lifts</b>	<b>2</b>	
<b>5 Ton come-along</b>	<b>1</b>	<b>*</b>
<b>Ingersol-Rand Air Impact Wrenches – ½” ¾” and 1” drives</b>	<b>5</b>	<b>*</b>
<b>Acetylene Torch – new – w/hoses, gauges and moveable rack</b>	<b>1</b>	<b>*</b>
<b>Insulated Track Gauge Bars – new</b>	<b>10</b>	
<b>Maintenance-of-way parts – assorted</b>	<b>numerous</b>	
<b>Flange Oiler Heads – new – used on curves to reduce wear</b>	<b>7</b>	
<b>Derail Assembly – bolt on to track</b>	<b>2</b>	
<b>Wooden Cross-Ties – new</b>	<b>35</b>	
<b>Gauge Bars – new – used to maintain proper gauge</b>	<b>18</b>	
<b>Wooden Grade Crossing – new – used to cross track at highway</b>	<b>1</b>	<b>*</b>
<b><u>Rail Car Parts</u></b>		
<b>Car Springs – Coil – new</b>	<b>24</b>	<b>*</b>
<b>Car Springs – Elliptical - new</b>	<b>12</b>	<b>*</b>
<b>Car Brake Cylinders – new</b>	<b>4</b>	
<b>Train Line Air Hoses – new</b>	<b>10</b>	

<b>Car Jacks – pneumatic – 50 ton each</b>	<b>1 pair</b>
<b>Jack Stands – Various Capacities – 25 ton, 50 ton</b>	<b>8</b>
<b>Stainless Steel Holding Tanks – new – used w/Microphor chemical toilets</b>	<b>8</b>
<b>Brass Couplings – new – used on train lines, plumbing, etc.</b>	<b>100's</b>
<b>Bolts and Fittings – new – 3 pallets with 3' x 3' x 4' boxes</b>	<b>1,000's</b>
<b>Propane Cabinet – Under Car – w/2 bottles</b>	<b>1 *</b>
<b><u>Vehicles</u></b>	
<b>1993 GMC Top Kick Hi-Rail Boom Truck – 145,000 miles excellent fully stocked with power and hand track tools</b>	<b>1 *</b>
<b>1993 Ford F250 Pick-up – 273,000 miles – good condition – hi-rail equipped automatic transmission – 5.8 litre V-8 – fully operational for rail/hwy use</b>	<b>1</b>
<b>JCB Tractor/Back-Hoe – w/extend-a-hoe option</b>	<b>1 *</b>
<b>Hi-Rail Equipment – to allow pick-up trucks to run on railroad tracks (1) Chevy and (2) Ford</b>	<b>3</b>
<b><u>Miscellaneous</u></b>	
<b>Cross-Bucks – Railroad Crossing Signs – new</b>	<b>10</b>
<b>Fire Extinguishers</b>	<b>8</b>
<b>Building – 55' x 100' steel bolt together – used and disassembled in South Fork To be erected as shop in South Fork – Summer 2012</b>	<b>1</b>

**Foundation owned items are identified in BOLD type.**

**\* Denotes private ownership, readily available to D&RG Historical Foundation**