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LAW OFFICES
FRITZ R. KAHN, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036

Tel.: (202) 263-4152 Fax: (202) 331-8330 E-mail: xiccgc@gmail.com

May 14, 2014

VIA ELECTRONIC FILING

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, D. C. 20423

Re: Docket No. AB 603 (Sub-No. 3X), V and S Railway, LLC—Abandonment
Exemption—In Kiowa County, Colo.

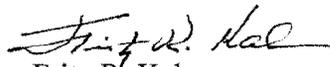
Dear Ms. Brown:

Attached is the Notice of Exempt Abandonment of V and S Railway, LLC.

By e-mail facsimile transmitted to you yesterday I sent you the Payment Form with my credit card information in payment of the \$3,900.00 filing fee.

If you have any question concerning this filing or if I otherwise can be of assistance, please let me know.

Sincerely yours,


Fritz R. Kahn

FILED
May 14, 2014
SURFACE
TRANSPORTATION BOARD

FEE RECEIVED
May 14, 2014
SURFACE
TRANSPORTATION BOARD

SURFACE TRANSPORTATION BOARD

Docket No. AB 603 (Sub-No. 3X)

V AND S RAILWAY, LLC
-- ABANDONMENT EXEMPTION --
IN KIOWA COUNTY, COLO.

NOTICE OF EXEMPT ABANDONMENT
OF
V AND S RAILWAY, LLC

Fritz R. Kahn
Fritz R. Kahn, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036
Tel.: (202) 263-4152

Attorney for

V AND S RAILWAY, LLC

Dated: May 14, 2014

SURFACE TRANSPORTATION BOARD

Docket No. AB 603 (Sub-No. 3X)

V AND S RAILWAY, LLC
--ABANDONMENT EXEMPTION--
IN KIOWA COUNTY, COLO.

NOTICE OF EXEMPT ABANDONMENT
OF
V AND S RAILWAY, LLC

V and S Railway, LLC (“V&S”), a Class III railroad subject to this Board’s jurisdiction, pursuant to 49 U.S.C. § 10903 and 49 C.F.R. § 1152.50, states, as follows:

1. The railroad line (“Line”) which is proposed to be abandoned extends between Milepost 749.5 near Towner and Milepost 787.5 near Eads, a distance of 38 miles in Kiowa County, Colorado

2. The anticipated consummation date is July 3, 2014.

3. V&S, by the attached Verification of Ms. Rhonda Nicoloff, a Manager of V&S, certifies that no local traffic has moved over the Line for at least two years’ time, and any overhead traffic on the Line can be rerouted over other lines. and that no formal complaint by a user of rail service on the Line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Board or any U.S. District Court or has been decided in favor of the complainant within the two-year period.

4. The exact name of the entity seeking the abandonment authority is V and S Railway, LLC.

5. V&S is a rail carrier subject to 49 U.S.C. Subtitle IV, chapter 105, having acquired the Line, a segment of the Towner Line, pursuant to the Decision of the Board in Docket No. FD 35664, V and S Railway, LLC—Acquisition and Operation Exemption—Colorado Department of Transportation, served November 13, 2012¹, 77 Fed Reg. 69542-69543, November 17, 2012.

6. V&S seeks the Board's authorization to abandon the Line.

7. A map of the Line is attached as Exhibit A.

8. The representative of V&S to whom correspondence should be addressed is:

Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street, NW (7th fl.),
Washington, DC 20036 (Tel.: (202) 263-4152).

9. The United States Postal Zip Codes traversed by the Line are 81071 and 81036.

10. Offers of financial assistance to acquire and operate the Line proposed for abandonment may be filed pursuant to 49 U.S.C. § 10904 and 49 C.F.R. § 1152.27.

The right-of-way of the Line proposed for abandonment may be useful for public purposes, pursuant to 49 U.S.C. § 10905 and 49 C.F.R. § 1152.28, or for interim trail use/rail banking, pursuant to 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29

11. No employee of V&S is expected to be adversely affected by the proposed abandonment, but V&S understands that Board's decision will be subject to the employee protective conditions of Oregon Short Line R. Co.--Abandonment--Goshen, 360 I.C.C. 91 (1979).

¹ The Board's Decision waived the requirement that V&S have Board authorized ownership of the Towner Line for at least two years before making the certification required at 49 C.F.R. § 1152.50(b).

12. V&S, by its attorney, certifies that notices were mailed in compliance with 49 C.F.R. § 1152.50(d)(1). A list of the addressees is attached as Exhibit B.

13. V&S, by its attorney, certifies that copies of the Environmental and Historic Report were mailed in compliance with 49 C.F.R. § 1105.11. A list of the addressees is attached as Exhibit C.

14. The Environmental and Historic Report is attached as Exhibit D.

15. V&S, by its attorney, certifies that an Official Notice of the proposed abandonment of the Line was published in the May 2, 2014, edition of the Kiowa County Press, a newspaper of general circulation in Kiowa County in compliance with 49 C.F.R. § 1105.11. A copy of the affidavit of publication is attached as Exhibit E.

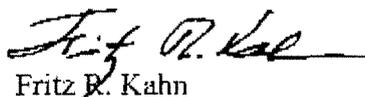
16. A draft Federal Register notice is attached as Exhibit F.

17. The Verification of Ms. Rhonda Nicoloff is attached as Exhibit G.

Respectfully submitted,

V AND S RAILWAY, LLC

By its attorney,



Fritz R. Kahn

Fritz R. Kahn, P.C.

1919 M Street, NW (7th fl.)

Washington, DC 20036

Tel.: (202) 263-4152

Dated: May 14, 2014

V&S Railway, LLC (Towner)
East End Abandonment

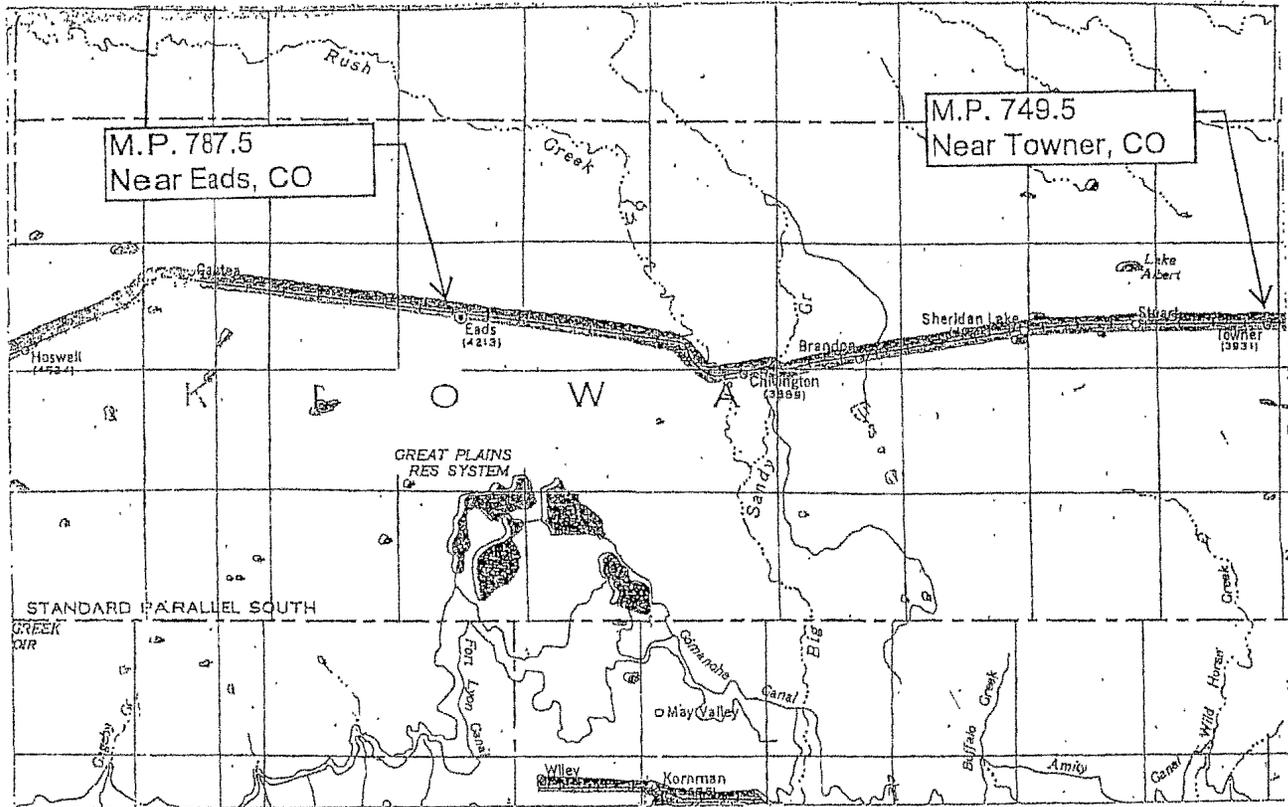


EXHIBIT B

ADDRESSEES OF THE 49 C.F.R. § 1152.50(d)(1) NOTICES

Chairman, Public Utilities Commission
1560 Broadway (Ste.250)
Denver, CO 80202

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

Recreation Resources Assistance Division
National Park Service
1201 I Street, NW (12th fl.)
Washington, DC 20005

Chief, USDA Forest Service
1400 Independence Ave., SW
Washington, DC 20250-0003

Chairman, Kiowa County Commissioners
P. O. Box 100
Eads, CO 81036

EXHIBIT C

ADDRESSEES OF THE 49 C.F.R. § 1105.11 LETTERS

Ms. Susan C. Linner
Fish and Wildlife service
P. O. Box 25486 DFC (65412)
Denver, CO 80225-0486

Mr. Chris Waffle
Corps of Engineers, Omaha District
9307 South Wadsworth Boulevard
Littleton, CO 80126-6901

U.S. Environmental Protection Agency
1595 Wynkoop Street
Denver, CO 80202-1129

U.S. National Geodetic Survey
NGS/12
1315 East-West Highway
Silver spring, MD 20910-3282

Ms. Pamela M. Fischhaber
Chief of Rail/Transit Safety
Colorado Public Utilities Commission
1560 Broadway (Ste. 250)
Denver, CO 80202

Ms. Phyllis Ann Philipps
State Conservationist
Natural Resource Conservation Service
P.O. Box 25426
Denver, CO 80225-0426

Mr. Edward C. Nichols
State Historic Preservation Officer
Office of Archeology and Historic Preservation
1200 Broadway
Denver, CO 80203

Colorado Department of Public Health and Environment
4300 Cherry Creek Drive South
Denver, CO 80246

Mr. Charlie Stockman
Park and Planning Special Studies
National Park Service
1201 Oakridge Drive (Ste. 150)
Fort Collins, CO 80525

SURFACE TRANSPORTATION BOARD

Docket No. AB 603 (Sub-No. 3X)

V AND S RAILWAY, LLC
-- ABANDONMENT EXEMPTION --
IN KIOWA COUNTY, COLO.

ENVIRONMENTAL AND HISTORIC REPORT

V and S Railway, LLC ("V&S"), pursuant to 49 C.F.R. § 1152.50, submits this Environmental and Historic Report in support of its Notice of Exemption.

1. Proposed action and alternatives. The line which V&S proposes to abandon extends between Milepost 749.5 near Towner and Milepost 787.5 near Eads, a distance of 38 miles in Kiowa County, Colorado ("Rail Line"). The Rail Line traverses U.S. Postal Service Zip Codes 81071 and 81036, which are the Zip Codes for the stations on the Rail Line, namely, Stuart at Milepost 752.5, Sheridan Lake at Milepost 758.1, Brandon at Milepost 766.2, Chivington at Milepost 771.8 and Eads at Milepost 785.

The Rail Line lies towards the eastern end of what is known as the Towner Line, which was acquired as a rail carrier by V&S from its former owner, the Colorado Department of Transportation, pursuant to the Board's Decision in Docket No. FD 35664, V and S Railway, LLC--Acquisition and Operation Exemption--Colorado Department of Transportation, served November 13, 2012, 77 Fed. Reg. 69542-69543, November 17, 2012.

No local or overhead traffic has moved over the 38-mile Rail Line of railroad in at least two years' time¹.

There are 17 structures within the Rail Line's right-of-way, bridges, trestles and culverts, which are 50 years old or older, most of them being ordinary timber open deck bridges or concrete culverts, and none of the structures or the Rail Line's berms will be removed or otherwise disturbed, so that the right-of-way of the line to be abandoned might serve a public purpose or be used for a recreational trail.

Based on information in V&S possession, the Rail Line proposed to be abandoned does not contain federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it.

2. Transportation systems. As already noted, no local or overhead traffic has moved over the 38-mile Rail Line in at least two years time, and it is unlikely that traffic will move over the Rail within the foreseeable future. By letter, March 27, 2014, a copy of which were sent to Director Rutson of the Board's Office of Environmental Analysis ("OEA"), V&S's representative advised the Colorado Public Utilities Commission of the proposed abandonment of the Rail Line. Attached as Exhibit A are copies of the exchange of correspondence between the PUC's Chief of Rail/Transit and V&S's representative relating to the closing of public highway crossings.

3. Land use. By letter dated March 27, 2014, a copy of which was sent to OEA, V&S's representative advised the USDA Natural Resources Conservation Service in

¹ The Board in its Decision said that, since V&S had operated the Towner Line since December 29, 2005, it would waive the requirement that V&S will have owned the Rail Line for at least two years' time before making the certification required at 49 C.F.R. § 1152.50(b).

Colorado of the proposed abandonment of the Rail Line. Attached as Exhibit B is a copy of the reply of the State Conservationist, dated April 4, 2014, stating, “[W]e have determined that we have no concerns to comment on at this time.”

4. Energy. No material increase in energy consumption will result from the proposed abandonment, since there are no shippers on the Rail Line. Rail service is available at Towner and Pueblo, and truck transportation is available via Colorado Highway 96 paralleling and adjacent to the Rail Line. By letters dated March 13, March 27 and April 11, 2014, copies of which were sent to OEA, V&S's representative advised the U.S. Environmental Protection Agency and Colorado Department of Public Health and Environment of the proposed abandonment. To date no reply has been received from either agency.

5. Air. No material emissions or pollutants will despoil the air as a result of the proposed abandonment of the Rail Line. The threshold levels of 49 C.F.R. § 1105.7(e)(5)(i)-(iii) will not be exceeded. By letters dated March 13, March 27 and April 11, 2014, with copies to OEA, V&S's representative advised the U.S. Environmental Protection Agency and Colorado Department of Public Health and Environment of the proposed abandonment of the Railroad Line. To date no reply has been received from either agency.

6. Noise. No material increase in the level of noise will result from the proposed abandonment of the Rail Line. The threshold levels of 49 C.F.R. § 1105.7(e)(6)(i) & (ii) will not be exceeded. By letters dated March 13, March 27 and April 11, 2014, with copies to OEA, V&S's representative advised the U.S. Environmental Protection Agency and the Colorado Department of Public Health and Environmental of the proposed

abandonment of the Railroad Line. To date no reply has been received from either agency.

7. Safety. There will be no material additional highway traffic, especially on Colorado Highway 96, as a result of the proposed abandonment of the Rail Line and, hence, no greater risk to public safety. By letter dated March 27, 2014, with copy to OEA, V&S's representative advised the Colorado Public Utilities Commission of the proposed abandonment of the Railroad Line. Attached as Exhibit A are copies of the exchange of correspondence between the PUC's Chief of Rail/Transit Safety and V&S's representative relating to the closing of the public highway crossings.

V&S is unaware of any hazardous waste sites or sites on which there were hazardous spills on the right-of-way of the Rail Line proposed for abandonment.

8. Biological resources. The proposed abandonment of the Rail Line will not affect endangered or threatened animal or plant species or areas designated as critical habitats, as far as V&S is aware. By letters dated March 13, March 27 and April 11, 2004, with copies to OEA, V&S's representative notified the U.S. Environmental Protection Agency, the Colorado Department of Public Health and the Environment and the U.S. Fish and Wildlife Service of the proposed abandonment of the Railroad Line. To date no reply has been received from any of these agencies.

9. Water. The proposed abandonment of the Rail Line will not affect Federal or Mississippi local water quality standards of which V&S is aware. By letter dated March 13, 2014, with copy to OEA, V&S's representative notified the U.S. Army Corps of Engineers of the proposed abandonment of the Railroad Line. Mr. Chris Waffle of the Littleton, Colo. Office of the U.S. Army Corps of Engineers telephoned V&S's

representative on April 4, 2014, to say that so long as the berms, bridges, trestles and culverts were undisturbed, the Corps did not oppose the Railroad Line's abandonment.

V&S is unaware of any designated wetlands or 100-year flood plains through which the railroad line proposed for abandonment passes.

10. Proposed mitigation. Since the proposed abandonment of the Rail Line will result in no material adverse environmental impacts, V&S perceives of no need for mitigating measures. Nevertheless, in accordance with the Board's regulations, by letters dated March 13, March 27 and April 11, 2014, with copies to OEA, V&S's representative advised the Colorado Public Utilities Commission, the National Park Service and the National Geodetic Survey of the proposed abandonment of the Railroad Line. Attached as Exhibit A are copies of the exchange of correspondence between the PUC's Chief of Rail/Transit Safety and V&S's representative relating to the closing of public highway crossings and as Exhibit C is a copy of the e-mail sent to V&S's representative by Ms. Cherri Espersen of the National Park Service. To date no reply has been received from National Geodetic Survey.

HISTORIC REPORT

1. A map of the Rail Line proposed for abandonment is attached as Exhibit D.
2. The right-of-way of the Rail Line proposed to be abandoned is 100 feet in width. The Rail Line runs through rural eastern Colorado, between Milepost 749.5 near Towner and Milepost 787.5 near Eads. Towner in 2010 had a population of 22, and Eads in 2012 had a population of 622. The 38-mile Rail Line is generally flat.
3. There are 17 structures within the right-of-way of the Railroad Line proposed to be abandoned that are 50 years old or older. The Colorado State Historic Preservation

Officer was provided with one or more 8 ½” x 11” color photographs of each of them, as was OEA. The photographs identify the milepost location of the structure, whether a bridge, trestle, culvert or other structure, its material and, when known, the date of its construction.

4. The Towner Line formerly was that of the Missouri Pacific Railroad and was built toward the end of the 19th century, when the railroad was under the control of one of the pioneer railroad financiers, Jay Gould. The Union Pacific Railroad acquired the Towner Line when it purchased and merged the Missouri Pacific Railroad. The Colorado Department of Transportation bought the Towner Line in 1998, and, in turn, V&S bought it in 2005.

5. The berms and the bridges, trestles, culvert and other structures 50 years old or older will remain in place if the Board were to authorize the Rail Line's abandonment. V&S has not plans to demolish or remove any of those structures following the Rail Line's abandonment, and the salvaging by V&S of the tracks, ties and other track materials of the Rail Line should not disturb those structures. There are no tracks, ties other track materials or structures of the originally built Missouri Pacific Railroad.

6. V&S has no engineering drawings or other documents relating to the 50 year old structures. They may be in the possession of one or another of the prior owners of the 38-mile Rail Line.

7. Neither the site of the 38-mile Rail Line or any of the structures within its right-of-way, in the opinion of V&S, meet the criteria for listing in the National Register of Historic Places.

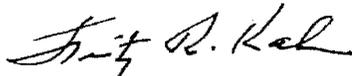
8. There is no evidence of ground disturbances or fill which might affect the archeological recovery of resources along the Rail Line and the surrounding terrain, and V&S has no knowledge of such changes in the subject area's environmental conditions.

9. Attached as Exhibit E are the letters, dated April 7 and 17, 2014, from the Colorado State Historic Preservation Officer agreeing with V&S's assessment that "[t]he proposed removal of the tracks and ties, but not the associated rail bed and track features (bridges, culvert, etc.) will have no adverse effect on this historic resource."

Respectfully submitted,

V AND S RAILWAY, LLC

By its attorney,



Fritz R. Kahn
Fritz R. Kahn, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036
Tel.: (202) 263-4152

Dated: April 24, 2014

EXHIBIT A



Dora

Department of Regulatory Agencies

Public Utilities Commission

Joshua B. Epel, Chairman
Pamela J. Patton, Commissioner
Glenn A. Vaad, Commissioner
Doug Dean, Director

John W. Hickenlooper
Governor

Barbara J. Kelley
Executive Director

April 10, 2014

Fritz R. Kahn, Esq.
Law Offices of Fritz R. Kahn, P.C.
1919 M Street, NW, 7th Floor
Washington, DC 20036

Dear Mr. Kahn,

The Colorado Public Utilities Commission ("Commission") received your letter dated March 27, 2014 on behalf of V and S Railway, Inc. ("V&S") regarding proposed abandonment of a railroad line known as the Towner Line in Kiowa County, Colorado.

The letter does not specify the issue(s) that V&S would like the Commission to evaluate. The general citations to 49 U.S.C. § 4332 *et seq.*, and 49 C.F.R. § 1105.1, *et seq.*, as well as a map of the railroad line are not sufficient for the Commission to identify and meaningfully evaluate any effects of the proposed abandonment. In addition, the Commission did not receive the letter "far enough in advance to afford [the Commission] a reasonable opportunity to provide meaningful input"¹ before the May 1, 2014 anticipated filing date with the Surface Transportation Board ("STB").

The Commission has jurisdiction over railroad-public highway crossings.^{2,3} Commission Rules require a railroad company abandoning a public crossing to file an application for approval with the Commission.⁴ The Commission will decide the merits of any abandonment applications, and it decides issues in its jurisdiction through written orders.⁵ V&S has not filed any applications to abandon public crossings along the Towner Line, and, without this required factual presentation, the Commission cannot evaluate the one issue identified in the federal rules arguably within its jurisdiction, which is the "effects of the proposed action on public health and safety (including vehicle delay time at railroad grade crossings)."⁶

¹ 49 C.F.R. § 1105.7(c).

² Section 40-4-106, C.R.S.

³ Please note that other Colorado government agencies may have jurisdiction over the matters discussed in 49 U.S.C. § 4332 *et seq.*, and 49 C.F.R. § 1105.1, *et seq.*

⁴ See, e.g., Rule 7102, 4 Code of Colorado Regulations (CCR) 723-7, available at www.dora.state.co.us/puc.

⁵ Section 40-2-106, C.R.S.

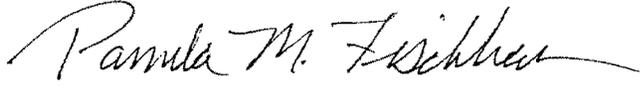
⁶ 49 C.F.R. § 1105.7(e)(7).



Mr. Fritz Kahn
April 10, 2014
Page 2 of 2

If you have further questions regarding the Commission's role in V&S's anticipated filing with the STB, please contact me at pamela.fischhaber@state.co.us or (303) 894-2529.

Sincerely,

A handwritten signature in black ink that reads "Pamela M. Fischhaber". The signature is written in a cursive style with a long, sweeping underline.

Pamela M. Fischhaber, P.E., WSO-CSS(Rail)
Chief of Rail/Transit Safety



Fritz Kahn <xiccgc@gmail.com>

Docket No. AB 603 (Sub-No. 2X)

1 message

Fritz Kahn <xiccgc@gmail.com>

Thu, Apr 17, 2014 at 12:09 PM

To: pamela.fishhaber@state.co.us

Bcc: Michael VanWagenen <mvanwagenen@akrailroad.com>

Ms. Fishhaber:

Thanks you for your letter, dated April 10, 2014, responding promptly to my inquiry of the effect that the proposed abandonment by V and S Railway, Inc. of an approximately 38-mile segment of the Towner Line on the programs of the Public Utilities Commission.

Upon the rail line's abandonment being approved by the Surface Transportation Board, V and S Railway, Inc. plans to salvage the track, ties and other track materials. It, however, does not plan to disturb any public highway crossings. If there were a public highway crossing that V and S Railway, Inc. will want to close, it first will contact the Public Utilities Commission and seek its concurrence.

Fritz R. Kahn

--

Fritz R. Kahn, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036
Tel.: (202) 263-4152
Fax: (202) 331-8330
e-mail: xiccgc@gmail.com

This message is intended for the addressee. If is midelivered, please mail it to the sender and telephone him to advise him of the misdelivery. Thank you.



Fritz Kahn <xiccgc@gmail.com>

Re: Docket No. AB 603 (Sub-No. 2X)

1 message

Fischhaber - DORA, Pamela <pamela.fischhaber@state.co.us>Mon, Apr 21, 2014 at 12:50
PM

To: Fritz Kahn <xiccgc@gmail.com>

Good Morning Mr. Kahn,

Thank you for the information. Any crossings that V&S leave in place along the abandoned portion of the line will continue to have to be properly maintained by V&S for both crossing surfaces and warning devices (active and passive) until such time as the crossings are closed and the track, ties, and warning devices are removed. It may be easier for V&S to close all of the related crossings so that the rail and warning devices can be removed to remove the ongoing maintenance responsibilities.

Thanks,
Pam**Pamela Fischhaber, P.E., WSO-CSS(Rail)**
Section Chief - Rail/Transit Safety**Colorado Department of**
Regulatory AgenciesPublic Utilities Commission
Rail/Transit Safety
1560 Broadway, Suite 250
Denver, CO 80202
P 303.894.2529 | F 303.894.2065
dora.colorado.gov/puc

Please note my new email address: Pamela.Fischhaber@state.co.us

On Thu, Apr 17, 2014 at 2:21 PM, Fritz Kahn <xiccgc@gmail.com> wrote:

----- Forwarded message -----

From: **Fritz Kahn** <xiccgc@gmail.com>
Date: Thu, Apr 17, 2014 at 2:15 PM
Subject: Fwd: Docket No. AB 603 (Sub-No. 2X)
To: pamela.fischhaber@state.co.us

----- Forwarded message -----

From: **Fritz Kahn** <xiccgc@gmail.com>
Date: Thu, Apr 17, 2014 at 12:09 PM
Subject: Docket No. AB 603 (Sub-No. 2X)
To: pamela.fischhaber@state.co.us

Ms. Fishhaber:

Thanks you for your letter, dated April 10, 2014, responding promptly to my inquiry of the effect that the proposed abandonment by V and S Railway, Inc. of an approximately 38-mile segment of the Towner Line on the programs of the Public Utilities Commission.

Upon the rail line's abandonment being approved by the Surface Transportation Board, V and S Railway, Inc. plans to salvage the track, ties and other track materials. It, however, does not plan to disturb any public highway crossings. If there were a public highway crossing that V and S Railway, Inc. will want to close, it first will contact the Public Utilities Commission and seek its concurrence.

Fritz R. Kahn

—
Fritz R. Kahn, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036
Tel.: (202) 263-4152
Fax: (202) 331-8330
e-mail: xiccg@gmail.com

This message is intended for the addressee. If is midelivered, please mail it to the sender and telephone him to advise him of the misdelivery. Thank you.

—
Fritz R. Kahn, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036
Tel.: (202) 263-4152
Fax: (202) 331-8330
e-mail: xiccg@gmail.com

This message is intended for the addressee. If is midelivered, please mail it to the sender and telephone him to advise him of the misdelivery. Thank you.

—
Fritz R. Kahn, P.C.
1919 M Street, NW (7th fl.)
Washington, DC 20036
Tel.: (202) 263-4152
Fax: (202) 331-8330
e-mail: xiccg@gmail.com

This message is intended for the addressee. If is midelivered, please mail it to the sender and telephone him to advise him of the misdelivery. Thank you.

EXHIBIT B

United States Department of Agriculture



U.S. Department of Agriculture
Natural Resources Conservation Service

Denver Federal Center
Bldg. 56, Rm. 2604
P.O. Box 25426
Denver, CO 80225-0426

April 4, 2014

Fritz R. Kahn, P.C.
1919 M Street, NW (7th Fl.)
Washington, D.C. 20036

RE: Docket No. AB 603 (Sub-No. 2X)

Dear Mr. Kahn:

The Natural Resources Conservation Service (NRCS) in Colorado has reviewed the information you forwarded in regards to the proposed abandonment of railway between Milepost 749.5 and Milepost 787.5. Based on this review by our Cultural Resources Specialist we have determined that we have no concerns to comment on at this time.

If you need further information or there is a revision to these plans that requires another review, please contact at the address above.

Sincerely,

A handwritten signature in black ink, appearing to read "Phyllis Ann Philipps". The signature is written in a cursive style and is positioned to the left of the typed name.

PHYLLIS ANN PHILIPPS
State Conservationist

EXHIBIT C



Fritz Kahn <xiccgc@gmail.com>

Abandonment Notice - STB Docket No. AB 603 (Sub-No.2X)

1 message

Espersen, Cherri <cherri_espersen@nps.gov>

Thu, Apr 17, 2014 at 4:53 PM

To: xiccgc@gmail.com

Cc: Charlie Stockman <Charlie_Stockman@nps.gov>, Sheila Wakisa <Sheila_Wakisa@nps.gov>

Mr. Kahn,

Thank you for your second letter. I called in response to the first letter, so just want to confirm that I am no longer the contact for these notices. Charlie Stockman is now the appropriate NPS contact; I have cc'd him on this email and will give him a copy of your letter as well. Please send future notices to his attention.

Thanks, and please let us know if you have any questions.

Cherri

Cherri Espersen
Park Planning and Special Studies
National Park Service
202.354.6955 office
202.641.0876 cell
Park Planning website

EXHIBIT D

V&S Railway, LLC (Towner)
East End Abandonment

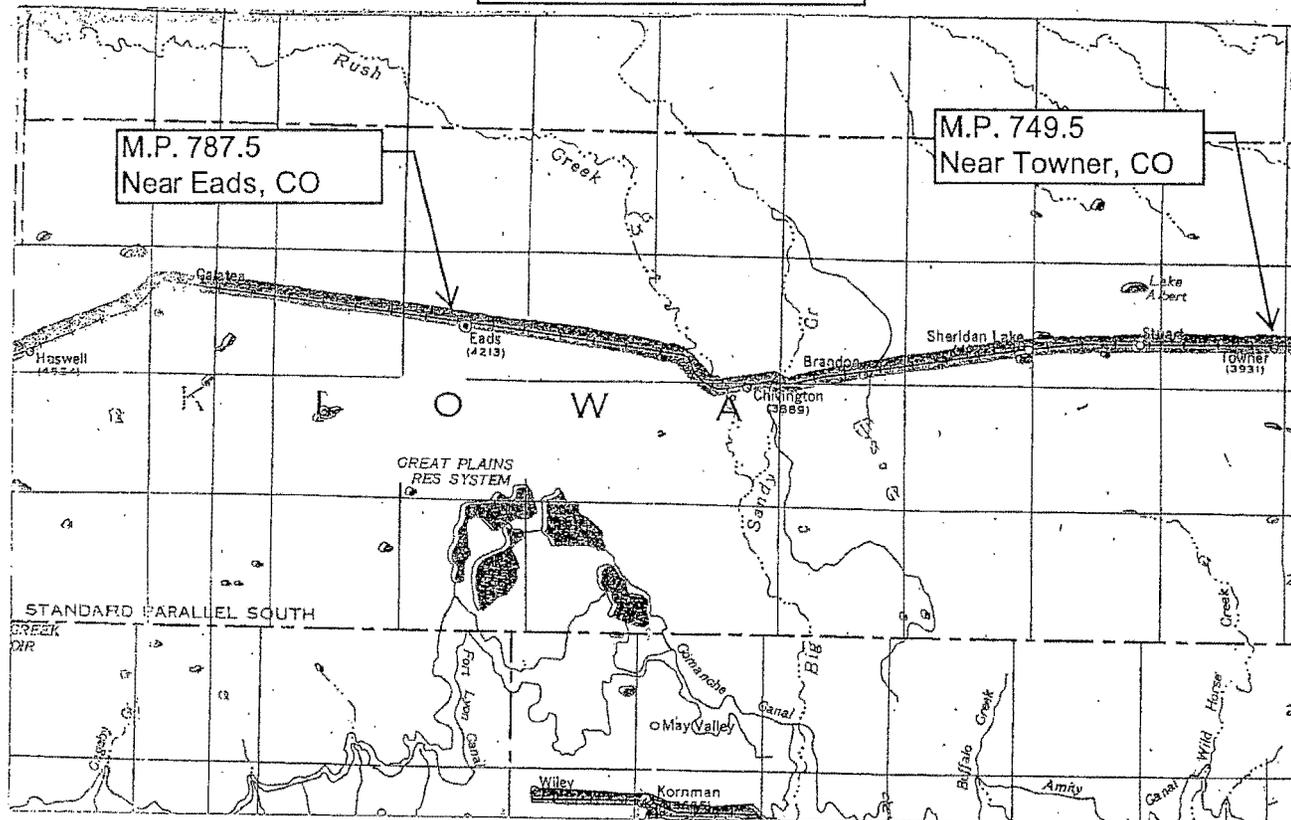


EXHIBIT E


HISTORY *Colorado*

17 April 2014

CHS #65734

Fritz R. Kahn, P.C
1919 M Street, NW (7th Floor)
Washington, DC 20036

RE: Abandonment of the Towner Line (5KW.52), V and S Railway, Kiowa County

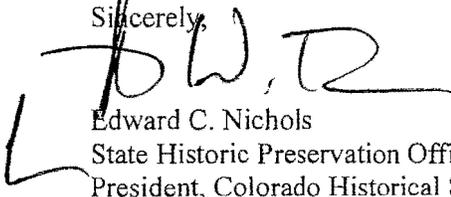
Dear Mr. Kahn:

Thank you for your recent correspondence dated 11 April 2014, concerning the proposed abandonment of a 38-mile segment of the V & S Railway's Towner Line. We trust that you have received our 7 April 2014 letter concurring with your assessment that the project will have no adverse effect on the former Missouri Pacific (now V & S) Railroad line. A copy of that letter is attached to this one for your convenience.

Please note that under Section 106 of the National Historic Preservation Act, State and Tribal Historic Preservation Offices have up to 30 calendar days to respond to a request for consultation {see 36.CFR.800.3(c)(4)}. If any State or Tribal Historic Preservation Offices have not responded within 30 days, the federal agency can (in most cases) assume their concurrence and proceed to the next step in the consultation process.

If you have any questions, please contact Joseph Saldibar, Architectural Services Manager, at (303) 866-3741.

Sincerely,



Edward C. Nichols
State Historic Preservation Officer, and
President, Colorado Historical Society

Attached: Copy of 7 April 2014 letter from Colorado SHPO

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 * Fax 303-866-2711 * E-mail: oa hp@state.co.us * Internet: www.historycolorado.org


HISTORY *Colorado*

7 April 2014

CHS #65734

Fritz R. Kahn, P.C
1919 M Street, NW (7th Floor)
Washington, DC 20036

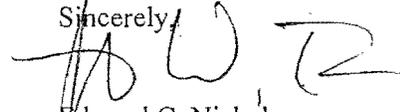
RE: Abandonment of the Towner Line (5KW.52), V and S Railway, Kiowa County

Dear Mr. Kahn:

Thank you for your recent correspondence dated 27 March 2014, concerning the proposed abandonment of a 38-mile segment of the V & S Railway's Towner Line. Our office has reviewed the submitted materials. This segment of the former Missouri Pacific Railroad was constructed in 1887 and was determined eligible for listing on the National Register of Historic Places in 1998. The proposed removal of the tracks and ties, but not the associated rail bed and track features (bridges, culverts, etc.) will have no adverse effect on this historic resource.

If you have any questions, please contact Joseph Saldibar, Architectural Services Manager, at (303) 866-3741.

Sincerely,



Edward C. Nichols
State Historic Preservation Officer, and
President, Colorado Historical Society

OFFICE OF ARCHAEOLOGY AND HISTORIC PRESERVATION
303-866-3392 * Fax 303-866-2711 * E-mail: oahp@state.co.us * Internet: www.historycolorado.org

EXHIBIT F

Response of U.S. Fish and Wildlife Service,
dated May 1, 2014, following receipt of
V&S's April 24, 2014, letter transmitting a copy
of the Environmental and Historic Report

RECEIVED
APR 28 2014

LAW OFFICES
FRITZ R. KAHN, P.C.
1919 M STREET, NW. (7TH FL.)
WASHINGTON, DC 20036
Tel.: (202) 263-4152 Fax: (202) 331-8330
e-mail: xiccgc@gmail.com

Ms. Susan C. Linner
Fish and Wildlife Service
P. O. Box 25486 DFC (65412)
Denver, CO 80225-0486

April 24, 2014

U.S. FISH AND WILDLIFE SERVICE	
<input checked="" type="checkbox"/> NO CONCERNS	
<input type="checkbox"/> CONCUR NOT LIKELY TO ADVERSELY AFFECT	
<input type="checkbox"/> NO COMMENT	
SUSAN C. LINNER	MAY 1 2014
COLORADO FIELD SUPERVISOR	

re: Docket No. AB 603 (Sub-No. 2X), V and S Railway, Inc.
Notice of Exemption

Dear Ms Linner:

On or about May 14, 2014, V and S Railway, Inc. ("V&S") expects to file with the Surface Transportation Board ("STB") its notice of exemption to abandon a segment of the Towner Line, between Milepost 749.5 near Towner and Milepost 787.5 near Eads, a distance of 38 miles in Kiowa County, Colorado. No local or overhead traffic has moved on the railroad line in more than two years' time. Enclosed is an Environmental and Historic Report describing the proposed action and any expected environmental and historic effects, as well as a schematic map of the line.

V&S is providing this Report so that you may review the information that will form the basis for the STB's independent environmental analysis of this proceeding. If any of the information is misleading or incorrect, if you believe that pertinent information is missing, or if you have any questions about the STB's environmental review process, please contact the STB's Office of Environmental Analysis, 395 E Street, SW, Washington, DC 20423 (tel.: (202) 245-0295) and refer to the above docket number. Because the applicable statutes and regulations impose stringent deadlines for processing this action, your written comments, with a copy to me, would be appreciated within three weeks.

Your comments will be considered by the STB in evaluating the environmental and/or historic preservation impacts of the contemplated action. If there are any questions concerning the proposal, please contact me by mail, e-mail or telephone.

Sincerely yours,

Fritz R. Kahn
Fritz R. Kahn

cc: Victoria J. Rutson, Esq.



PROOF of PUBLICATION



EXHIBIT E

STATE OF COLORADO,)
COUNTY OF KIOWA) SS.

Chris Sorensen

I, do solemnly swear that I am

Publisher

(Editor, Asst. Editor, Publisher)

of the Kiowa County Press; that the same is a weekly newspaper printed in whole or in part, and published in the County of Kiowa, State of Colorado, and has a general circulation therein; that said newspaper has been published continuously and uninterruptedly in said County of Kiowa for a period of more than fifty-two consecutive weeks next prior to the first publication of the annexed legal notice or advertisement; that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the Act of March 8, 1879, or any amendments thereof, and that said newspaper is a weekly newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the State of Colorado.

That the annexed legal notice or advertisement was published in the regular and entire issue of every number of said weekly

newspaper for the period of 1 consecutive insertions and that the first publication of said notice was in the issue of

said newspaper dated MAY 2

A.D., 20 14, and that the last publication of said notice

was in the issue of said newspaper dated MAY 2

A.D., 20 14

In witness whereof I have unto set my hand this

2 day of MAY A.D., 20 14

(Editor, Asst. Editor, Publisher)

Subscribed and sworn to before me a notary public in and for the County of Kiowa, State of Colorado, this

2 day of May A.D., 20 14

Notary Public

My commission expires April 30 2016

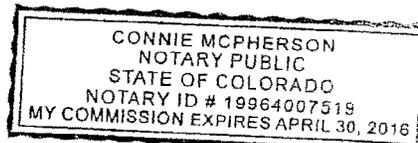
**OFFICIAL NOTICE
SURFACE TRANSPORTATION
BOARD
NOTICE OF INTENT TO
ABANDON RAIL SERVICE**

V and S Railway, Inc. ("V&S") gives notices that on or about May 14, 2014, it intends to file with the Surface Transportation Board, Washington, DC 20423, a notice of exemption under 49 CFR Subpart F - Exempt Abandonments, permitting the abandonment of 38-mile line of railroad between railroad milepost 749.5 near Towner which traverses through United States Postal Service ZIP Code 81071 and railroad milepost 787.5 near Eads which traverses through United States Postal ZIP Code 81036 in Kiowa County, Colorado. The proceeding has been docketed as No. AB 603 (Sub-No. 2X). The Board's Office of Environmental Analysis ("SEA") generally will prepare an Environmental Assessment ("EA"), which will normally be available 25 days after the filing of the notice of exemption. Comments on environmental and energy matters should be filed no later than 15 days after the EA becomes available to the public and will be addressed in a Board decision. Interested persons may obtain a copy of the EA or make inquiries regarding environmental matters by writing to the Office of Environmental Analysis ("SEA"),

Surface Transportation Board, 395 E Street, SW, Washington, DC 20423 or by calling that office at (202) 245-0295.

Appropriate offers of financial assistance to continue rail service can be filed with the Board. Requests for environmental conditions, public use conditions, or rail banking/trails use also can be filed with the Board. An original and 10 copies of any pleading that raises matters other than environmental issues (such as trails use, public use, and offers of financial assistance) must be filed directly with the Board's Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street, SW, Washington, DC 20423. [See 49 C.F.R. §§ 1104.1(a) and 1104.3(a)], and one copy must be served on applicant's representative [See 49 C.F.R. § 1104.12(a)]. Questions regarding offers of financial assistance, public use or trails use may be directed to the Board's Office of Public Assistance, Government Affairs, and Compliance at (202) 245-0238. Copies of any comments or requests for conditions should be served on the applicant's representative, Fritz R. Kahn, Esq., Fritz R. Kahn, P.C., 1919 M Street, NW (7th fl.), Washington, DC 20036 (Tel.: 202-263-4152).

Published May 2, 2014
in the Kiowa County Press



Draft Federal Register Notice

DEPARTMENT OF TRANSPORTATION

SURFACE TRANSPORTATION BOARD

Docket No. AB 603 (Sub-No. 3X)

V AND S RAILWAY, LLC
-- ABANDONMENT EXEMPTION --
IN KIOWA COUNTY, COLO.

NOTICE OF EXEMPT ABANDONMENT

On May 14, 2014, V and S Railway, LLC (“V&S”) filed with the Board a Notice of Exempt Abandonment pursuant to 49 U.S.C. § 10502 from the provisions of 49 U.S.C. § 10903 and 49 C.F.R. § 1152.50 to abandon the segment of its line of railroad between Milepost 749.5 near Towner and Milepost 787.5 near Eads, a distance of 38 miles in Kiowa County, Colorado (“Line”). The Line traverses United States Postal Service Zip Codes 81071 and 81036, which are the Zip codes for the stations on the Line, Stuart, Sheridan Lake, Brandon, Chivington and Eads.

V&S believes that the segment of the line to be abandoned contains no federally granted rights-of-way. Any documentation in V&S’s possession will be made available promptly to those requesting it.

The interests of railroad employees will be protected by the conditions of Oregon Short Line R. Co.—Abandonment—Goshen, 360 I.C.C. 91 (1979).

Following its abandonment, the right-of-way of the Line may be suitable for public use or for rail banking/trails use.

Petitions to stay the effective date of the notice on other than environmental or historic preservation grounds must be filed within 10 days of the publication. Petitions to stay the effective date of the notice on environmental or historic preservation grounds may be filed at any time but must be filed sufficiently in advance of the effective date in order to allow the Board to consider and act on the petition before the notice becomes effective. Petitions for reconsideration, comments regarding environmental, energy and historic preservation matter, and request for public use conditions under 49 U.S.C. § 10905 and 49 C.F.R. § 1152.28(a)(2) must be filed within 20 days after publication. Requests for a trail use condition under 16 U.S.C. § 1247(d) and 49 C.F.R. § 1152.29 must be filed within 10 days after publication. The exemption will be effective 30 days after publication unless stayed. If the notice of exemption contains false or misleading information, the use of the exemption is void *ab initio* and the Board shall summarily reject the exemption notice.

Each offer of financial assistance must be accompanied by a \$1,600 filing fee. See, 49 C.F.R. § 1002.2(f)(25). Comments and/or offers of financial assistance must be filed with the Board's Chief of the Section of Administration, Office of Proceedings, Surface Transportation Board, 395 E Street, SW, Washington, DC 20423-0001. All filings in response to this notice must refer to Docket No. AB 603 (Sub-No. 3X). A copy shall be served on V&S's representative, Fritz R. Kahn, Esq., Fritz R. Kahn, P.C., 1919 M Street, NW (7th fl.), Washington, DC 20036. Questions concerning offers of financial assistance may be directed to the Board's Office of Public Assistance, Governmental Affairs and Compliance at (202) 245-0238, or reference be made to the full abandonment and discontinuance regulations at 49 C.F.R. § 1152, et seq. Assistance for the hearing

impaired is available through the Federal Information Relay Service (“FIRS”) at 1-800-877-8339.

Board decisions and notices are available on its website at www.stb.dot.gov.

Decided:

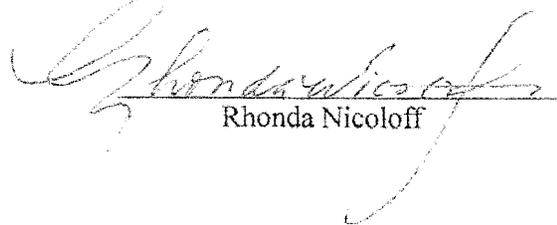
By the Board, Rachel D. Campbell, Director, Office of Proceedings.

EXHIBIT G

VERIFICATION OF MS. RHONDA NICOLOFF

I, Rhonda Nicoloff, a Manager of V & S Railway, LLC (V&S"), declare under penalty of perjury, under the laws of the United States of America, that I have read the foregoing Notice of Exempt Abandonment and that its assertions are true and correct to the best of my knowledge, information and belief. No local traffic has moved over the line between Milepost 749.5 near Towner and Milepost 787.5 near Eads, a distance of 38 miles in Kiowa County, Colorado, for at least two years' time, and any overhead traffic on the line can be rerouted over other lines and that no formal complaint by a user of rail service on the line (or a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Board or any U.S. District Court or has been decided in favor of complainant with the two-year period. I further declare that I am qualified and authorized to submit this verification on behalf of V&S. I know that willful misstatements or omission of material fact constitute Federal criminal violations punishable under 18 U.S.C. 1001 by imprisonment up to five years and fines up to \$10,000 for each offense. Additionally, these misstatements are punishable as perjury under 18 U.S.C. 1621, which provides for fines up to \$2,000 or imprisonment up to five years for each offense.

Dated at Salt Lake City , Utah, this 12 day of May, 2014.


Rhonda Nicoloff