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Part 2

**BEFORE THE SURFACE TRANSPORTATION BOARD  
OF THE UNITED STATES**

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**UNION PACIFIC RAILROAD  
COMPANY - ABANDONMENT  
EXEMPTION - IN RIO GRANDE  
AND MINERAL COUNTIES, CO**

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**DOCKET NO. AB-33  
(SUB-NO. 132X)**

210048

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**MOTION FOR LEAVE TO FILE LIMITED REBUTTAL STATEMENT**

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Pursuant to 49 C.F.R. § 1117.1, The City of Creede, Colorado, by its attorney, George M. Allen, hereby moves for leave to file a Limited Rebuttal Statement to the Respondent Denver & Rio Grande Railway Historical Foundation's (the Foundation) January 20, 2004 Reply In Opposition To Petition To Reopen Decision (the Reply).

The Limited Rebuttal Statement is attached to this Motion and is directed solely to statements raised by the Foundation for the first time in its reply, suggesting that even though it manifestly has not operated rail service at any time over the right of way awarded to it in 1999, it is entitled to a presumption that it is presumed capable of conducting operations over the line for two years (Reply, page 8), and statements that the Foundation's chief executive officer, Donald Shank, has discharged his personal \$400,000.00 pledge to the Foundation by a contribution of some \$506,028.00 (Reply, page 14) and that the Foundation's submissions regarding cost of rehabilitation of the line and the Foundation's financial capability to rehabilitate and operate the line with a

shipper demand driven revenue stream are somehow credible.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "G. M. Allen", written over a horizontal line.

GEORGE M. ALLEN  
Counsel for City of Creede