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November 5, 2004

VIA MESSENGER

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Honorable Vernon A. Williams  
Secretary  
Surface Transportation Board  
1925 K Street, NW  
Washington, DC 20423

Re: Union Pacific Railroad Co. - Abandonment Exemption - - in Rio Grande  
& Mineral Counties, CO, Docket No. AB-33 (Sub-No. 132X)

Dear Secretary Williams:

Enclosed are the original and 10 copies of Petition to Reopen of the Concerned Citizens of Creede and Mineral County, Colorado and related exhibits. Also enclosed is a check in the amount of \$200.00 for the filing fee and three diskettes, each containing an electronic versions of the Petition.

Please time and date stamp the additional copy of the Petition and exhibits and return them with the messenger. Thank you for your assistance.

Sincerely,

Ronald M. Johnson

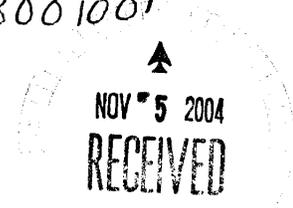
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SURFACE  
TRANSPORTATION BOARD

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D: D # 01041108001001

BEFORE THE  
SURFACE TRANSPORTATION BOARD



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Docket No. AB-33 (Sub-No. 132X)

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Union Pacific Railroad Company  
-- Abandonment Exemption --  
In Rio Grande and Mineral Counties, CO

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PETITION TO REOPEN  
OF CONCERNED CITIZENS OF CREEDE  
AND MINERAL COUNTY, COLORADO

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Dated: November 5, 2004

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SURFACE  
TRANSPORTATION BOARD

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BEFORE THE  
SURFACE TRANSPORTATION BOARD

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Docket No. AB-33 (Sub-No. 132X)

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Union Pacific Railroad Company  
-- Abandonment Exemption --  
In Rio Grande and Mineral Counties, CO

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PETITION TO REOPEN  
OF CONCERNED CITIZENS OF CREEDE  
AND MINERAL COUNTY, COLORADO

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SUMMARY OF ARGUMENT

The Concerned Citizens of Creede, Colorado and Mineral County, Colorado (“Concerned Citizens”), pursuant to 49 C.F.R. § 1152.25(e)(4), respectfully submit this petition to reopen the Board’s prior determination that the offer of financial assistance (“OFA”) of the Denver & Rio Grande Railway Historical Foundation (“D&RGHF”) to acquire the Creede Branch met the requirements of 49 U.S.C. § 10904.<sup>1</sup>

Under Section 1152.25(e)(4), the Concerned Citizens must show “material error, new evidence, or substantially changed circumstances.” In these proceedings, various persons have previously challenged whether the D&RGHF satisfied the requirements of

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<sup>1</sup> It is not clear to Concerned Citizens whether a page limit applies to petitions to reopen administrative decisions. If there is a page limit, and we have exceeded it, Concerned Citizens ask that they be allowed to exceed that page limit and that their Petition be accepted. It is also not clear to Concerned Citizens whether they need to file a petition to intervene. Cf. Champion’s Auto Ferry, Inc. -- Revocation of Certificate, Docket No. WC 1548 (Sub-No. 1 C), 1995 ICC LEXIS 326. If one is necessary, we ask that this Petition also be treated as such.

Section 10904. The Board has rejected their challenges, raising the bar for challenge with each subsequent review. Concerned Citizens, however, respectfully submit that the Board's findings, in its decision served June 22, 2004, as well as in earlier decisions, that the D&RGHF met the requirements of Section 10904 are based on material error and are contrary to Board precedent, Section 10904, and common sense. New evidence submitted with this Petition confirms that the D&RGHF's offer did not satisfy the statutory criteria. Indeed, new evidence and the record in these proceedings show that the offer of financial assistance procedures have been misused, because the D&RGHF did not acquire the Branch to provide continued rail freight service, but to try to establish a historic tourist railroad.

The new evidence submitted with Concerned Citizens' Petition includes:

- D&RGHF's federal tax returns and website, which show that it does not have, and never had, the financial capability to purchase, rehabilitate and operate freight service on the Creede Branch;
- Recent pictures of the right-of-way showing that D&RGHF has misrepresented the condition of the Creede Branch and that prohibitively expensive rehabilitation efforts are still needed to restore freight operations;
- Rather than the replacement of only several hundred ties, as the Board apparently believed, D&RGHF must replace thousands of ties at a cost of over \$1 million;
- Most of the rail on the Creede Branch is 65-lb rail, was rolled more than 100 years ago, in 1888 and 1891, and may crack and break under the stresses of modern freight cars and locomotives;
- The supposed shipper interest presented by D&RGHF consisted of a single company, GMCO, which ships about two dozen tank cars of magnesium chloride, once a year, to Monte Vista, Colorado, on the San Luis & Rio Grande Railroad, and has the ability to ship these tank cars by rail to South Fork, Colorado, which is only about 20 miles from Creede;

- The Creede Depot, which D&RGHF advised the Board for the first time in its September 2004 filing in Docket No. 343776 that it needed to conduct its freight and passenger operations, is not even owned by D&RGHF; the depot was sold to Mineral County in 1961 and has been operated as a museum by the Creede Historical Society for many years.

The Board's June 22 and prior Decisions focused primarily on whether D&RGHF was "financially responsible." Until its June 22 Decision, the Board never considered the "critical factor" of whether D&RGHF had demonstrated a sufficient demand for freight service to warrant the rehabilitation and operation of the Branch.<sup>2</sup> The Board has explained that an OFA must show that "there existed a real need for that service."<sup>3</sup> Even though the D&RGHF's founder, Mr. Donald H. Shank, admitted that "[w]e knew all along that there hasn't been any need for freight service for a long time," the Board found a need for restoration of freight service had been demonstrated.<sup>4</sup> However, the only potential freight traffic identified by the D&RGHF was the possibility of about 25 carloads of magnesium chloride a year, and that was highly speculative. The Board's finding that D&RGHF had demonstrated a need for restoration of rail service on a long dormant line based on such perfunctory and anemic expression of supposed shipper interest was material error and contrary to Board precedents rejecting similarly deficient offers OFAs for out-of-service lines.

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<sup>2</sup> See, e.g., Conrail Abandonment of a Portion of the 30<sup>th</sup> Street Secondary Track in New York, NY, In the Matter of an Offeror of Financial Assistance, Docket No. AB-167 (Sub-No. 494N) 1987 ICC LEXIS 477, \*13.

<sup>3</sup> The Burlington Northern and Santa Fe Ry. Co. -- Abandonment Exemption -- In King County, WA, STB Docket No. AB-6 (Sub-No. 380X), 1998 STB LEXIS, \*15 (served Aug. 5, 1998).

<sup>4</sup> Appdx. DHS-8 to Verified Statement of Donald H. Shank (filed Jan. 20, 2004).

The Board's finding that the D&RGHF had the financial capability, not only to acquire the Creede Branch, but also rehabilitate the Branch and operate freight service for at least two years, was also material error and without any support in the record. The attached tax returns of D&RGHF show that the D&RGHF used most of its early cash donations to pay \$350,000 of the \$624,000 purchase price for the Branch. The D&RGHF has never demonstrated that it had the financial capability to actually restore and operate the line. That the D&RGHF lacks such financial capability is made clear by the fact that it has been unable to do so in the nearly five years since the Board improvidently approved its purchase of the Creede Branch.

In that regard, the D&RGHF also continues to misrepresent the true facts concerning the condition of the Creede Branch. A picture is worth a thousand words as they say. The recently taken pictures submitted by the Concerned Citizens with this Petition show that the Branch today remains in essentially the same dilapidated and unusable condition as it has for the last three decades.

The Board should withdraw its approval of the offer of financial assistance and approve the abandonment of the Creede Branch as originally requested by the Union Pacific Railroad Company ("UP").

Concerned Citizens take no position on the issues before the Board in Docket No. 343776. They note, however, that the Board's answers to the questions referred by the United States District Court for the District of Colorado in City of Creede v. D&RGHF presuppose that the Creede Branch is an "active" rail line and that the D&RGHF is a rail carrier within the jurisdiction of the Board. The record shows that the Creede Branch was de facto abandoned many years ago and that D&RGHF is not, and

has no reasonable possibility of ever, reestablishing rail freight operations over the  
Branch.

Request For Oral Argument

The Concerned Citizens request that their Petition be set for oral argument before the Board.

## ARGUMENT

### I. Interests Of Concerned Citizens

The Concerned Citizens are permanent residents of Mineral County, Colorado or the City of Creede, Colorado.<sup>5</sup> They are concerned that development in the City and County be thoughtful, take into account the public interest, and be subject to regulation by state and local authorities including land use planning and zoning, as are other businesses and land owners in the County. With the status of a “rail carrier” subject to the jurisdiction of the Board under subtitle IV of Title 49, the D&RGHF can assert, as it has, that it is exempt from local economic and environmental regulation. The D&RGHF can also continue to occupy land that would revert to the landowner and be available for other uses, if not considered as being used for railroad purposes. Mr. Shank apparently has a vision of operating a historic tourist railroad on the Creede Branch. This business venture should be subject to the same rules, regulations, and other requirements as other businesses and activities in Mineral County. In The Burlington Northern and Santa Fe Ry. Co. -- Abandonment Exemption -- King County, WA, STB Finance Docket No. AB-6 (Sub-No. 380X), 1998 STB LEXIS 200, \*5 (served Aug. 5, 1998), aff’d, Redmond-Issaquah Railroad Preservation Ass’n v. STB, 223 F.3d 1057 (9<sup>th</sup> Cir. 2000) (hereinafter “Redmond-Issaquah”), the Board rejected an OFA for an out-of-service line, stating as follows:

We emphasize that the OFA process envisions that a party acquires a rail line under section 10904 will continue to provide rail service. Where that is not the case, we noted, we will not allow our jurisdiction to shield a railroad, or any other party seeking relief before us, from the legitimate processes of Federal, state, or local law.

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<sup>5</sup> A list of the Concerned Citizens is contained in Exhibit No. 1 to this Petition.

Yet, the Board has allowed the misuse of its jurisdiction by accepting the D&RGHF's OFA for the Creede Branch. Included in Exhibit No. 2 is correspondence between D&RGHF, the City of Creede, the Colorado Attorney General and the Colorado State Land Board relating to controversies over Mr. Shank's assertion of the right to occupy and use land long abandoned, as a practical matter, by the UP's predecessor, and that STB preemption trumps any local or state authority.<sup>6</sup>

The Concerned Citizens are also worried about the impact the D&RGHF would have on Creede. They have the same kinds of concerns that the Board took into account when a much larger community opposed an OFA for an out-of-service line in its midst. See Conrail Abandonment of a Portion of the West 30<sup>th</sup> Street Secondary Track in New York, NY, In the Matter of an Offer of Financial Assistance, Docket No. AB-167 (Sub-No. 493N), 1987 ICC LEXIS 477 ("Conrail Abandonment"). Creede is a small town, indeed the only town, in a small county. Mineral County is the second smallest county in Colorado. Nonetheless, the issues raised by Concerned Citizens are no less deserving of careful Board attention than those raised by the City of New York. The railroad right-of-way accounts for nearly one fourth of the Creede downtown. As has been previously described in these proceedings, the plans of the D&RGHF are at odds with other uses to which this land has and could be put. The Concerned Citizens are also concerned about more recent statements the D&RGHF has made in Docket No. 343776 regarding its supposed need for the right-of-way and train depot in Creede for railroad operations. While Mr. Shank refers to a four-track yard in Creede that will be needed for the

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<sup>6</sup> Some of this correspondence may already be in the record of these proceedings or in Docket No. 34376.

D&RGHF's operations, in fact, there is no functioning rail yard in Creede and has not been for decades. The tracks in the City have long been buried or deteriorated, as the photographs included with this Petition depict. Mr. Shank is also in error that the D&RGHF has any right to the train depot in Creede.<sup>7</sup>

The D&RGHF has also been trying to force the City and County to spend taxpayer dollars to restore and maintain railroad crossings in Creede when there is no likelihood that D&RGHF will be able to reestablish freight service to Creede. The City and County have limited funds and should not be required to spend them on such a speculative venture. Indeed, contrary to the statements of Mr. Shank, the line is not open all the way to Creede.

The interests of the Concerned Citizens cannot adequately be represented by the City of Creede. Their interests are not limited to what happens within the City of Creede. In addition, it is not clear that the City has the resources to continue its efforts to try to persuade the Board or other tribunals that there is no basis for its decisions finding that the D&RGHF met the legal criteria in Section 10904 and Board precedent.

## II. The D&RGHF Did Not Meet The Criteria Of Section 10904

The D&RGHF's offer of financial assistance had to meet the statutory criteria in 49 U.S.C. § 10904. First, the D&RGHF had to show that, as a practical matter, it intended to restore and continue rail operations over the Creede Branch for at least two years. Second, the D&RGHF had to show that it had sufficient financial responsibility to purchase, rehabilitate and operate the Creede Branch. The Board's findings that

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<sup>7</sup> See Verified Statement of Donald H. Shank at 3 (filed Sept. 13, 2004 in F.D. 34376) ("The Foundation will use the depot for a freight office and for passenger operations.").

D&RGHF met these criteria are based on material error and cannot stand in the face of additional evidence submitted with this Petition.

A. The D&RGHF Cannot Reestablish And Conduct Freight Operations For Two Years

Based on the “totality of the evidence,” the Board found in its June 22 Decision that “the record supports the conclusion that D&RGHF intended from the outset to rehabilitate the Creede Branch and subsidize any available freight traffic by running a tourist passenger excursion service on the line.” 2004 STB LEXIS 378, \*16. The “evidence” that the Board cited was (1) the stated intent of D&RGHF’s founder, Mr. Shank; (2) the fact that the D&RGHF was rehabilitating the Branch; and (3) letters “from three area proponents of rail service.” Id., \*18. As we next explain, the Board’s analysis contains material error. In addition, the Board failed to follow its own precedents and consider the “critical factor” of whether D&RGHF had demonstrated a sufficient shipper interest in restoration of freight service.

1. The D&RGHF’s Stated Intent Has Always Been To Operate A Tourist Railroad

The Board’s finding that the D&RGHF intended to restore freight service on the Branch and subsidize its freight operation with excursion trains is contradicted by the record statements of Mr. Shank himself. He has been quite clear from the outset that the purpose of the D&RGHF is to operate a historic tourist railroad. He stated as much in his Verified Statement:

We knew all along that there hasn’t been any need for freight rail service for a long time. The STB knew we were going to rehab the line, then initiate a tourist-based operation with the hopes of some freight business.

Appdx. DHS-8 to Verified Statement of Donald H. Shank at p.2 (filed Jan. 20, 2004) (emphasis added). See also id. at p.7 (“We knew going into this purchase that nothing existed in the form of freight business on the line. . . . We felt that a tourist-based passenger operation augmented by freight rail service might have a good chance of success. Our initial plan was to get some form of limited passenger operation going and continue to identify any potential need for freight.”). The Board’s finding that the D&RGHF intended to operate as a for-hire freight railroad is also inconsistent with the Board’s statement elsewhere in its June 22 Decision that the “D&RGHF is an existing charitable historic foundation. . . .” 2004 STB LEXIS 378, \*15. As a tax-exempt charitable foundation, its activities must primarily further its tax-exempt purposes. See, e.g., 26 C.F.R. § 1.501(c)(3)-1(c)(1).

Moreover, from its inception, the D&RGHF never indicated that its intention was to acquire and operate the Creede Branch as a freight railroad. A review of the D&RGHF’s 1997 Articles of Incorporation as a Colorado non-profit corporation, newly submitted with this Petition, and its application to the Internal Revenue Service for tax-exempt status as a Section 501(c)(3) charitable foundation, shows that its intent was to establish a railroad museum. See Exhibit Nos. 3 and 4. For example, in its application for tax-exempt status, signed by Mr. Shank, D&RGHF explained that the “main function of the Foundation is the acquisition, restoration and preservation of historic railroad equipment, artifacts and memorabilia native to Colorado, New Mexico, and Utah.” Its “ultimate goal” was to “create the Durango Railroad Museum Complex” in Durango, Colorado. There is similarly no mention in the D&RGHF’s tax returns, which also require a statement of organizational purpose, of an intent to restore freight service over

the Creede Branch. Copies of D&RGHF's tax returns are attached as Exhibit No 5.

D&RGHF apparently began to assert an intent to restore freight service on the Creede Branch only after it became aware that it might be able to use the OFA process to acquire this Branch, which, long ago (say, 1891 to about 1902), was part of the narrow gauge rail system operated by the Denver & Rio Grande Western Railroad.<sup>8</sup>

In any event, Mr. Shank's later statements to the Board that the D&RGHF would also offer freight service, if a need ever materialized, would not be dispositive of the D&RGHF's intent. As the Board explained in Redmond-Issaquah, the critical inquiry is not what the offeror says, but whether "there existed a real need for that [freight] service." 1998 STB LEXIS 200, \*15. The record here, and additional evidence submitted by Concerned Citizens, showed that there was no demonstrated need for freight service on the Creede Branch.

2. The D&RGHF's Rehabilitation Efforts Do Not Show That It Can Reestablish Freight Service On The Creede Branch

The fact that the D&RGHF has made efforts to rehabilitate the Branch begs the question of whether D&RGHF is capable of restoring and operating freight service on the Branch; this is the only relevant inquiry under Section 10904. While the D&RGHF may have incentive to take the steps it has to establish a historic "tourist based operation," the

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<sup>8</sup> The Creede Branch was originally built in 1891 as a narrow gauge line to serve silver mines in the Creede area. The branch was subsequently dual gauge for a brief period and converted completely to standard gauge in 1902. Trails Among The Columbine: A High Country Anthology, 41, 65 (1988). Because this book may not be readily available to the Board, excerpts are attached as Exhibit No 6. It is probably no coincidence that Mr. Shank was from Durango, Colorado, where the narrow gauge Silverton Branch continues to be operated as a historic tourist railroad. See, e.g., The Durango & Silverton Narrow Gauge Railroad Co. -- Petition for Declaratory Exemption, Finance Docket No. 31024, 1993 ICC LEXIS 226.

purpose of Section 10904 is not to rehabilitate rail lines as historic tourist railroads, but to restore rail freight service, where warranted, for the benefit of shippers.

3. There Has Never Been A Showing Of Sufficient Shipper Interest In The Reestablishment Of Freight Service

This case presents the unusual situation where the line has been out-of-service for decades and there are no shippers on the line. The Board's finding that there was shipper demand for freight service sufficient to justify the rehabilitation of the Creede Branch was contrary to the Board's own precedents and material error. New information submitted by Concerned Citizens also shows that D&RGHF's supposed showing of shipper interest did not satisfy Section 10904 and Board precedent.

a. The Burden Was On D&RGHF To Demonstrate A Sufficient Traffic Base

Under Board precedents, including those cited in the June 22 Decision, the burden should have been on the D&RGHF to show sufficient traffic to justify reestablishing and operating freight service on the Creede Branch. For example, in Roaring Fork Railroad Holding Authority -- Abandonment Exemption -- Garfield, Eagle, and Pitkin Counties, CO, 1999 STB LEXIS 299 \*11 ("Roaring Fork Railroad"), the Board explained that "when disputed, an offeror must be able to demonstrate that its OFA is for a continued rail freight service." 1999 STB LEXIS 299, \*8. To meet that burden, the offeror must make a particularized and credible showing of sufficient shipper traffic base to justify the cost of rehabilitating the line. In Redmond-Issaquah, a local preservation association made an OFA for a branch line that was out of service and over which no traffic had moved. In those circumstances, the Board stated that the following factors had to be reviewed before it would consider an OFA:

[I]t is appropriate for us to require, and carefully review before instituting an OFA proceeding, evidence of a public need for continued rail service, given the unusual circumstances surrounding this case (i.e., a record showing that (1) BNSF embargoed the line for safety reasons in August 1996, (2) no traffic has moved on it since that time, (3) the cost of restoring the line would be substantial, and (4) we had no information to suggest that prospects for anything more than de minimis traffic on the line now or in the future exists -- certainly not enough to cover rehabilitation and operating costs).

1998 STB LEXIS 200, \*9-10. In Conrail Abandonment, where the offeror was seeking to acquire an out-of-service line segment in New York City, the Board's predecessor explained that "[t]he availability of sufficient traffic is a critical factor in determining whether West Side will be able to fulfill its obligation to provide continued rail service." 1987 ICC LEXIS 477, \* 13.

Even though a showing of sufficient shipper interest is deemed a "critical factor" in assessing an OFA, the D&RGHF did not submit any evidence of shipper interest until January 2004, as part of its Reply to the second petition to reopen filed by the City of Creede.<sup>9</sup> It is clear from the June 22 Decision that the Board believes that the City should have come forward sooner with its concerns. The record also shows that the City and competing offerors were not conversant with the Board's procedures and the OFA process. On the other hand, the Board apparently made no independent analysis of whether the D&RGHF's OFA satisfied the requirements of Section 10904 and Board precedent. Given that the Creede Branch has been out of service for decades and there are no shippers on the line, it should have been obvious that the D&RGHF would not be able to demonstrate a sufficient demand for freight service.

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<sup>9</sup> The City earlier filed a protest letter, which the Board treated as a petition to reopen.

b. The Board's Finding That D&RGHF Showed Shipper Interest Was Material Error

The Board's June 22 Decision refers to the Creede Branch as an "active" rail line. This is, of course, a legal fiction. In Modern Handicraft, Inc. -- Abandonment, STB Finance Docket No. 29330, (Aug. 19, 1981), 1981 WL 22670 (I.C.C.), the Board found that a de facto abandonment had occurred when "[n]o rail service or recognizable rail track maintenance has taken place since 1968. Nor has there been any serious effort on the part of [the carrier] to solicit traffic or reinstitute rail service." That was the case here too.<sup>10</sup>

Even though there has been no freight service over the Creede Branch in more than two decades, and there are no shippers on the line, the Board found that D&RGHF had demonstrated a demand for rail service on the basis of "letters from three area proponents of rail service. . . ." 2004 STB LEXIS 378, \*17-18. One letter was from GMCO Corporation, which indicated that it would like to ship about 25 carloads of product to the Creede area for use in suppressing dust on dirt roads. The other two letters were from the road supervisors of Mineral and Hinsdale Counties, Colorado, indicating

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<sup>10</sup> The demand for rail service has been in steady decline in the San Luis Valley. The Creede Branch is the end of a branch of the former Denver & Rio Grande Western Railroad running west from Alamosa, Colorado. After the Denver & Rio Grande Western Railroad ceased service on the Creede Branch, South Fork, Colorado became the de facto end of this branch. Thus, the Creede Branch was essentially a branch of a branch line, and a dead branch at that, some 25 years ago. In 2003, a successor of the Denver & Rio Grande Western Railroad, the UP, sold its line from Walsenburg, Colorado through Alamosa to South Fork to a new short line, the San Luis & Rio Grande Railroad, Inc., which is a subsidiary of RailAmerica. STB Finance Docket No. 34350, San Luis Railroad Co. -- Acquisition and Operation -- Union Pacific Railroad Co. (served July 18, 2003). A map showing the San Luis & Rio Grande and the Creede Branch is Exhibit No. 7. Unlike the Creede Branch, these lines had some freight traffic and were still in operation at the time of their sale. UP may have decided to abandon, rather than sell, the Creede Branch, because there was no prospect for freight service over that long dormant, out-of-service line.

that they would like to receive magnesium chloride by rail rather than by truck.

Magnesium chloride is used as a dust suppressant on roads. See Exhibit No. 8. As the Board itself noted, none of these letters represented a firm commitment to actually use rail freight service.

In other OFA proceedings, the Board has refused to credit such non-committal expressions to be a meaningful indicator of shipper interest in continued rail operations. For example, in Redmond-Issaquah, the Board found that verified statements by would-be shippers, which had made no commitments to ship by rail, were “speculative” and “perfunctory” and did not show shipper interest. See 1998 STB LEXIS 200, \*16. See also, e.g., Abandonment of R. Lines & Discontinuance of Service, 365 I.C.C. 249, 260 (1981) (OFAs that “merely hold out the possibility of service at some unspecified future time, are not properly to be considered offers of financial assistance and do not fall within the scope of [the statute].”). Yet here, the Board inexplicably departed from established precedent and uncritically accepted the claimed shipper interest submitted by D&RGHF, even though that showing was weaker and more speculative than those found wanting in Redmond-Issaquah, Conrail Abandonment, and Roaring Fork Railroad. Indeed, even the D&RGHF was skeptical about the need for freight service on the Creede Branch. Mr. Shank stated that “we would be ready, willing and able to haul freight, if any presented itself.” Shank VS, Appdx. DHS-8 at 1 (filed Jan. 20, 2004) (emphasis added). However, the willingness to haul freight “that seems unlikely to materialize does not provide a sufficient basis for invoking Section 10904.” Redmond-Issaquah at 1998 STB LEXIS 200, \*22.

The Board also requires that the offeror demonstrate “that there is sufficient traffic to enable the operator to fulfill its commitment to provide that service.” Roaring Fork Railroad, 1999 STB LEXIS 299, \*8. See also Conrail Abandonment, 1987 ICC LEXIS 477, \*13 (a “critical factor”). Even a cursory examination of the letters presented by D&RGHF showed that not only were they “speculative,” but that, even if the shipments ever materialized, they were de minimis and could not possibly support the substantial investment necessary to restore and operate freight service on the Creede Branch.

Additionally, the Board misread the Shank Verified Statement to mean that these three letters represented three potential shippers. A careful reading of his Verified Statement shows that the letters represented only one supposedly potential shipper, GMCO. See Appdx. 8 at p.7 to Shank VS (filed Jan. 20, 2004) (“Through my efforts I fortunately identified a shipper and two recipients requesting product delivery in Creede. . .”). GMCO is located in Rifle, Colorado, as its letterhead indicates, which is not located on the Creede Branch and is not in Mineral County. Rifle is about 265 miles from Creede on the other side of the Continental Divide, as shown in the map in Exhibit No. 9. One of the services provided by GMCO to local governments is to spread magnesium chloride on roads as a dust suppressant. Mineral County is, and Hinsdale County was, a customer of GMCO; they are not shippers.<sup>11</sup> Thus, the only supposed shipper identified by D&RGHF was GMCO.

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<sup>11</sup> Local governments pay a per-gallon price to a company like GMCO, which covers the cost of the magnesium chloride and the service of spreading it on the road surface with the company’s trucks. By way of illustration, attached as Exhibit No. 10 is an invoice from GMCO to the City of Creede for a similar service. As another example, Exhibit

Concerned Citizens understand that, to service Mineral County and the City of Creede, GMCO currently receives magnesium chloride by railroad tank car in Monte Vista, Colorado, on the San Luis & Rio Grande Railroad.<sup>12</sup> The magnesium chloride is transferred into GMCO trucks, which then drive to Mineral County and apply it to the surface of dirt roads. Generally, the dust suppressant is applied once a year, in the early summer. The carloads of magnesium chloride used in Mineral County are presumably within the 25 carloads that GMCO claimed it would like to have shipped to the Creede area. Monte Vista is only about 50 miles from Creede. Moreover, these tank cars could be shipped to South Fork, also on the San Luis & Rio Grande, which is only about 20 miles from Creede. It is obviously not efficient to spend millions, or even hundreds of thousands, of dollars to rehabilitate the Creede Branch, when Monte Vista and South Fork are relatively close by, just so a few tank cars can be spotted a few miles closer to the Creede area once a year.

The road supervisor for Hinsdale County stated in his letter that it would like to have 65,000 gallons of magnesium chloride delivered by rail to Creede, rather than be picked up in Alamosa, Colorado. There is no explanation of why tank cars of magnesium chloride used in Hinsdale County could not also be delivered to Monte Vista, which is only about 17 miles west of Alamosa on the San Luis & Rio Grande, or to South Fork.

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No. 11 is minutes of Hinsdale County Commission meetings where one matter discussed was the annual application of magnesium chloride as a dust suppressant.

<sup>12</sup> Based on conversation with GMCO. As explained in note 10, the San Luis & Rio Grande purchased this line from UP in 2003.

But, again, the 65,000 gallons of magnesium chloride used by Hinsdale County is apparently within the 25 carloads that GMCO supposedly would ship to Creede.<sup>13</sup>

Clearly, the ability to ship, once a year, a couple of dozen or so railroad tank cars of magnesium chloride by rail to Creede, as opposed to Monte Vista or even South Fork, for use in Mineral and Hinsdale Counties does not demonstrate a sufficient need for continued rail service. In Roaring Fork Railroad, the Board found that a projection of 300 to 400 cars was insufficient traffic volume to support a need to restore freight service on an out-of-service line. Ironically, the Board there found that projected shipments by GMCO to be “minimal”. 1999 STB LEXIS 299, \*9-10.

Although the Board has found in other OFA proceedings that the cost to rehabilitate an out-of-service line is an important criterion in assessing whether there was a sufficient need for freight service, see, e.g., Redmond-Issaquah at 1998 STB LEXIS 200, \*20-22, the June 22 Decision, as well as earlier Board decisions in this proceeding, completely ignored this important criterion. As explained in more detail in Part II.B of this Petition, the record and new evidence clearly demonstrate that substantial effort and cost would be necessary to rehabilitate the Creede Branch. Again, 25 carloads annually of freight obviously is not an adequate shipper base to justify the kind of investment that would be necessary to restore, let alone operate, the Branch.

A sufficient traffic base cannot be shored up with projected revenue from tourist passenger operations. No such information is in the record and was not a basis for the

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<sup>13</sup> The quantity of 65,000 gallons would only represent around three rail tank car loads. The capacity of tank cars that carry such commodities is typically about 19,000 gallons.

Board's June 22 Decision. In any event, passenger traffic cannot make up for the fact that that there is no demonstrated need for freight service on the Creede Branch.<sup>14</sup>

In the nearly five years since the Board accepted D&RGHF's offer, it has not been able to come up with any firm commitments by any shippers to use freight service on the Creede Branch.<sup>15</sup> It is no mystery why D&RGHF cannot do so. There are no shippers on the line. There is no industry or manufacturing or other economic activity along the Creede Branch or in Mineral County today that would need or support rail freight service. The population of Mineral Country, including Creede, is only about 831. The population of Creede itself is about 350. The economic activity is based primarily on tourism, a summer repertory theater, outdoor recreation, and ranching.<sup>16</sup>

**B. D&RGHF Is Not Financially Responsible**

The Board's finding that D&RGHF was "financially responsible" was also material error and disproved by new evidence submitted by Concerned Citizens. Concerned Citizens estimate that D&RGHF would need nearly \$2 million to pay off its debts and rehabilitate and operate the Branch. D&RGHF has never shown that it can raise funds of this magnitude.

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<sup>14</sup> Such a de minimis amount of freight shipments on an otherwise tourist operation would not even warrant the assertion of jurisdiction by the Board. See Napa Valley Wine Train, Inc. Petition for Declaratory Order, Finance Docket No. 31156, 1991 WL 166559 (I.C.C.).

<sup>15</sup> The D&RGHF, in its Reply Statement (p.6), filed in Finance Docket No. 34376, City of Creede, CO -- Petition for Declaratory Order, stated that "the Foundation currently is in discussion with a significant potential rail user who could require construction of sidetrack facilities for transloading commodities from truck to rail." Needless to say, if this is intended to represent shipper interest, it is even more speculative and vague than the representations made by D&RGHF in this Docket.

<sup>16</sup> See website of Creede, Colorado, [www.creede.com](http://www.creede.com).

In its June 22, 2004 Decision, the Board rejected protestants' arguments that D&RGHF was not financially responsible, relying on the presumptive correctness of its earlier findings. The Board stated that "the hurdle to be overcome by such a petitioner increases substantially as time passes." 2004 STB LEXIS 378, \*13-14. Never mind that the passage of time has shown the Board's original finding of financial responsibility was based on faulty assumptions and erroneous information concerning the purchase price and the D&RGHF's finances.

Although "troubled by apparent inconsistencies . . . regarding Mr. Shank's financial documents," the June 22 Decision went ahead and found the D&RGHF financially responsible, because (1) the D&RGHF "has taken in significant donations for the purpose of rehabilitating the Creede Branch;" (2) D&RGHF was able to consummate the sale and "is current in its financial obligations to UP;" and (3) the City of Creede's petition was "contrary to the intent of the OFA provisions." 2004 STB LEXIS 378, \*15. Each of these rationales is contradicted by new evidence and was material error.

1. The Fact That D&RGHF Could Close The Sale Did Not Show It Had The Financial Resources To Restore Freight Service

We turn first to the fact the Board's finding that D&RGHF was able to close the purchase. The original finding by the Director of the Office of Proceedings that D&RGHF was financially responsible was based on the fact that D&RGHF's purchase offer was for \$387,930 and D&RGHF claimed cash and pledges of \$400,000. April 6, 1999 Decision at 2. However, the purchase price ultimately agreed to by UP was \$624,000, which D&RGHF did not have. As has previously been pointed out by other protestants, D&RGHF could close the purchase only because UP repeatedly agreed to postpone closing and ultimately agreed to finance a significant portion of the purchase

price by taking a note for \$274,616 from D&RGHF.<sup>17</sup> May 24, 2000 Decision at 2.

While the Board stated that it was not unusual for the selling carrier to finance the sale of one of its rail lines, the fact that UP had to finance a substantial portion of the purchase shows that D&RGHF had no financial backing. Moreover, D&RGHF had to use almost all of the cash it had raised to pay the \$350,000 of the \$624,000 purchase price it could manage. Under the financing arrangement with UP, D&RGHF is not required to pay any principal or interest on the note until 2005, with equal payments due in March and September of 2005.<sup>18</sup> D&RGHF's tax returns for 1999 through 2002 (the most recent return D&RGHF has yet filed) suggest that, in the meantime, with interest, D&RGHF's debt has grown to \$454,873, and is probably more now. There is no indication in the record of where the D&RGHF might obtain funds to pay UP's note when it comes due.<sup>19</sup> So, for the Board to say that D&RGHF is financially responsible, because it is current in its obligations to UP, does not show the true or complete picture of the D&RGHF's finances.

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<sup>17</sup> According to the record, it took D&RGHF more than a year, from April 28, 1999 to at least May 2, 2000, to close after it reached a purchase agreement with UP. May 24 Decision at 2. The D&RGHF was able to raise funds to make the purchase, at least that portion not being financed by UP. The record shows that most of that, \$250,000, came from a one-time gift by an unidentified Japanese benefactor. Mr. Shank may have put some of his own money in, but it is not clear how much.

<sup>18</sup> Letter from Robert T. Opal, UP, to George M. Allen (dated Nov. 26, 2003) attached as Appdx. DHS-2 to Shank VS (filed Jan. 20, 2004).

<sup>19</sup> One more indication that D&RGHF is strapped for funds is that it has not been able to pay its property taxes for 2003. These taxes, \$4,165.28, were due April 30, 2004. D&RGHF has also accrued a penalty, to date, of \$291.57 for non-payment of its taxes. Conversation with Mineral County Treasurer on Nov. 5, 2004.

2. The Board's Finding That D&RGHF Could Finance The Rehabilitation Of The Branch And Restoration Of Freight Service Was Material Error And Is Contradicted By New Evidence

In other cases involving out-of-service lines, when considering whether an offeror was financially responsible, the Board has analyzed, not only whether the offeror could finance the purchase price, but also whether it had sufficient financing, expected freight revenues, or other assets to cover the costs of rehabilitation, start-up costs, and other significant cost items such as insurance. See, e.g., Redmond-Issaquah at 1998 STB LEXIS 200, \*21-22; Conrail Abandonment, 1987 ICC LEXIS 477, \* 22-23. The Board here performed no such analysis and its unsupported finding that D&RGHF was financially responsible was material error. That this finding was material error is also confirmed by new evidence.

a. The Rehabilitation Costs For The Creede Branch Are Substantial

The Board has recognized in prior OFA proceedings that the cost of rehabilitating a rail line can be substantial, especially where the line has been out of service. See, e.g., Redmond-Issaquah at 1998 STB LEXIS 200, \*20-21. Yet, in these proceedings, the Board seemed to believe, erroneously, that "most of the track rehabilitation that D&RGHF would perform would consist of replacing failed standard-gauge crossties." 1999 STB LEXIS 236, \*8. There is no question that the cost to rehabilitate the Creede Branch is substantial.

One indication of the magnitude of the costs necessary to rehabilitate the Creede Branch can be found in the D&RGHF's applications in 2002 for grants (of federal dollars) from the State of Colorado totaling \$10 million for the period July 1, 2003 through June 30, 2005. In its applications, the D&RGHF gave as the project cost to

“Restore the Bridges between South Fork and Creede on the D&RG line” “\$2,075,500” and requested federal funds of \$1,660,400.” The D&RGHF gave as the project cost to “Restore the Track and Ties between South Fork and Creede Colorado” “\$8,094,240” and the project cost to “Construct a Railroad Maintenance Facility” “\$125,650.” These applications, which are not discussed in the Board’s June 22 Decision. Mr. Shank subsequently tried in his statements to this Board to discredit his own grant applications, by claiming the amounts sought were exaggerated by the person who prepared them. See Response to Opposition’s Motion For Leave To File Limited Rebuttal Statement at 2-3 (filed March 1, 2004) (statement of Donald H. Shank); Shank VS, Appdx. 8 at 5-6. These applications were, however, signed by Mr. Shank, as President of the D&RGHF. Needless to say, his attempted disavowal does not inspire confidence in his or the D&RGHF’s credibility.<sup>20</sup> But , whether or not the dollar amounts sought were exaggerated, Mr. Shank did not deny that the projects for which grants were sought were significant, costly and necessary.

The photos and information submitted by Concerned Citizens also show that substantial rehabilitation work remains to be done and that its cost will be significant. The information on the net liquidation value of the Creede Branch, submitted by UP pursuant to 49 C.F.R. § 1152.27, lists about 63,000 ties on the Branch. See Exhibit No. 12. The UP classified most (59,848) of these ties as “scrap ties” and gave them a value of zero (0) dollars. Other ties were classified as usable for landscape purposes. None of the ties were listed as reusable for railroad purposes. The photos submitted by

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<sup>20</sup> The record in these proceedings is replete with misstatements, corrections, and revisions by Mr. Shank concerning his and the D&RGHF’s finances.

Concerned Citizens show that UP was not exaggerating the condition of the ties. In fact, many, if not most, of the ties are rotted and/or are missing tie plates. The cost of a tie and related materials (spikes, tie plates, etc.) is around \$35.<sup>21</sup> There is also the cost of installing the new ties and disposing of the old ties. D&RGHF apparently has been trying to rely on volunteer labor. Even assuming that D&RGHF could install new ties and dispose of the old ties at no cost (a highly unlikely scenario), the cost alone of replacing about 60,000 ties would be \$2.1 million. D&RGHF may believe it can get by with only replacing one in three ties. This could be one explanation of its estimate on its website for the need to replace 22,000 ties. See Exhibit No. 14-2. Concerned Citizens believe that more ties would need to be replaced. But, even at 22,000 ties, and again assuming the only cost to D&RGHF is the cost of the ties, the cost of tie replacement is still \$770,000. These are conservative estimates. The real cost is probably much more. The D&RGHF has never demonstrated sufficient level of freight shipments that could be possibly justify an investment of \$770,000, \$2.1 million, or anything in between.

And there is the rail. The UP information shows that most of the rail is 65-lb stick rail that has been bolted together. As the Board knows, 65-lb rail is, by modern standards, very light rail.<sup>22</sup> This most likely is the original steel rail from when the Creede Branch was first laid as a narrow gauge line in 1891. Concerned Citizens have

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<sup>21</sup> The Concerned Citizens obtained a quote of \$35 per tie from Railworks Corporation, one of the leading suppliers of ties and other track and related materials, on October 26, 2004. A report on the cost of ties shows that the composite price in 2004 for ties in the Northern Region of the United States is \$28 per tie. This figure apparently does not include tie plates and fasteners or transportation. See Exhibit No. 13. D&RGHF, on its website, asks that donors donate \$45 per tie. See Exhibit No. 14-2.

<sup>22</sup> By comparison, today's main line rail can be 150-lb per yard.

examined selected pieces of this rail. As the Board may know, information on the producer of rail and when it was rolled can be found in raised letters and characters on the web of the rail.<sup>23</sup> The pieces examined showed that some of the rail had been rolled in 1889 by Illinois Steel. Other pieces were rolled in 1891. Producers of rail in that era did not use the modern processes that have been in use for some time. Rail rolled before the 1930s tended to have more inclusions.<sup>24</sup> Inclusions are imperfections, caused by air or other gas bubbles or pieces of slag in the steel. Over time, as the rail is subject to the loading and unloading of stress as locomotives and rail cars travel over the rail, these inclusions expand into defects that become fissures or cracks and eventually the rail breaks. The rail on the Creede Branch is over 100 years old and is light-weight. It is not going to hold up well under the weight of modern freight cars and locomotives. This rail is going to have to be replaced if reliable and safe freight service is ever to be reestablished. Needless to say, it is going to be extremely expensive to relay the track with heavier rail that has been produced in a modern era.

Even if the rail is not replaced, D&RGHF will only be able to operate trains at very slow speeds over this light rail if cracks and breaks are to be avoided or mitigated. In its present condition, the Branch is not even excepted track within the meaning of the Federal Railroad Administration's track classifications. See 49 C.F.R. §§ 213.4, 213.109. D&RGHF will have to bring the track up to at least class I standard, if it is to operate passenger trains. 49 C.F.R. § 213.4(e)(2). The maximum allowable speed over excepted

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<sup>23</sup> The "web" of the rail is the vertical part between the head and the base of the rail.

<sup>24</sup> See generally, J. Armstrong, The Railroad: What It is, What It Does, at 33-34 (3d ed. 1997).

or class I track for freight trains is 10 mph. 29 C.F.R. § 213.9(a). Freight trains might have to travel at less than 10 mph given the condition of the rail. At such slow speeds, it would take a train more than two hours to travel 21 miles over the Creede Branch from South Fork to Creede. It does not make any sense to spend hundreds of thousands of dollars, if not several million, to rehabilitate the Creede Branch so about two dozen freight cars can take a two-hour trip to travel 20 miles more by rail, when this same distance can be driven over the adjacent Colorado Highway 149 in 30 minutes or less. And recall that the shipments of magnesium chloride must be transloaded to trucks in any event.

Pictures submitted by Concerned Citizens also show that the track is overgrown with vegetation, the ballast has long been eroded away, the right-of-way needs to be shored up along the banks of the Rio Grande River, several bridges over the Rio Grande River need rehabilitation, and new support facilities need to be built.

b. D&RGHF Cannot Finance Necessary Rehabilitation Costs

The June 22 Decision stated that the D&RGHF had taken in “significant donations.” The Board does not say what it considers significant. Nor did it consider whether those donations would be adequate to pay off UP’s note and cover the costs of rehabilitation described above. In any event, the “significant donations” were apparently a one-time phenomenon and, as explained, were largely used to pay the \$350,000 portion of the purchase price that D&RGHF paid to UP. The D&RGHF’s tax returns filed since 1999 indicate that, since it received the initial donations of \$202,000 and, from an anonymous Japanese benefactor, \$250,000, the D&RGHF has not been taking in much in the way of cash donations. These returns show that D&RGHF’s revenues have consisted

largely of small donations and membership dues. D&RGHF reported total revenues of \$10,443, \$5,400, and \$29,000 in, respectively, 2000, 2001, and 2002. The D&RGHF reported expenses greater than its revenues and dues for each such year, \$13,339, \$35,916, and \$46,815, respectively.

The D&RGHF's tax returns show further inconsistencies in the finances that D&RGHF reported to the Board. In an Exhibit to Mr. Shank's January 15, 2004 Verified Statement, entitled "Contributions Made By Donald Shank," Mr. Shank claimed to have made contributions totaling \$508,028 to the D&RGHF in the years 1999, 2000, 2001, and 2002. However, the footnote to this Exhibit shows that this claimed amount was not all donations of cash. The footnote explains that "[t]he above numbers are a combination of equipment purchased and contributions of cash to the Foundation." He further explains in his Appendix 8 (at p.4) to his Verified Statement that a portion of that donation includes "expenses for fuel and repairs for the maintenance equipment operations, as well as fuel, lodging, food, trips to auctions, legal and professional costs, and plenty of intangibles, which wouldn't necessarily appear on a Property Declaration. . . ." In other words, it is hard to tell where Mr. Shank's finances start and those of D&RGHF stop.<sup>25</sup>

What does not appear on the D&RGHF's tax returns for these same years is any indication that Mr. Shank made donations to the Foundation in the amounts he claimed to the Board. The D&RGHF's 1999 Form 990 shows cash contributions of \$250,000 and \$202,464, for a total of \$452,464, most of which was paid to UP. As explained, the \$250,000 amount is the one-time contribution by the anonymous Japanese benefactor, not

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<sup>25</sup> Actually, it appears that, in effect, Mr. Shank may be the D&RGHF.

Mr. Shank.<sup>26</sup> The 2000 Form 990 shows no contributions (i.e., \$0). This form, however, shows total revenues in that year of \$10,452. See Form 990, Part IV-A. Whatever this figure represents, it is far less than the \$100,000 in money and equipment that Mr. Shank claimed to have contributed in 2000. The 2001 Form 990 shows contributions of only \$2,600, in contrast to the \$72,545 that Mr. Shank claims to have contributed in 2001. Where Mr. Shank asserts he contributed cash and equipment worth \$68,004 in 2002, the 2002 Form 990 shows no contributions from anyone in 2002. The 2002 Form 990 shows membership dues of \$5,326 and rents of \$18,500 were collected in 2002, but these figures do not represent personal contributions by Mr. Shank. In sum, where he claims he made contributions totaling \$506,028 through 2002, the D&RGHF's tax returns show receipt of contributions from all sources (excluding the donation of the Japanese businessman) totaling only \$205,064, or less than half claimed. Even then, it is not clear how much of this was actually funds as opposed to donated equipment and other "intangibles" or who contributed the funds. If any significant amount of this were cash, presumably UP would not have had to finance the sale of the Branch. A table comparing contributions claimed by Mr. Shank and D&RGHF's tax returns is Exhibit No. 15.

Statements made by Mr. Shank and others on behalf of the D&RGHF since the Board in 1999 approved its purchase of the Creede Branch, and since the 2002 tax return, make it clear that the D&RGHF essentially has no significant funds and no assets of any real value that are not encumbered. For example, when in connection with the D&RGHF's June 14, 2002 grant application, the Colorado State Department of

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<sup>26</sup> Incidentally, the record shows that Mr. Shank initially tried to assert that he had contributed this \$250,000 in funds. He later clarified that this was the contribution by the Japanese businessman. The record does not show what the \$202,464 represents.

Transportation requested more information from the D&RGHF and some evidence of D&RGHF's creditworthiness, the D&RGHF withdrew its applications, with Mr. Shank complaining in a September 24, 2002 e-mail (in the record in Docket No. 343776) that the State's requests were too onerous, as follows:

D&RGHF is hereby withdrawing from the CDOT Enhancement Program. The demands placed upon us are simply unrealistic. Case-in-point, the final requirement from Tom Norton [CDOT] for a letter of credit sufficient to cover rehab, equipment, maintenance and operation. If we had that we wouldn't need the enhancement funds, would we. Additionally, [the City of] South Fork cannot provide a resolution stating that they accept responsibility for the long-term operation of the facility (railroad). That is unrealistic.

See Exhibit No. 16 (emphasis added).

The D&RGHF also acknowledges on its website (www.wagon-wheel-gap-route.freehomepage.com) that it lacks funds and appeals for donations of money and equipment.<sup>27</sup> The appeal makes clear that the D&RGHF lacks the funds to finish paying UP or rehabilitate the Branch, stating as follows:

As any non profit foundation goes, money always is an object and this is also the situation with our Foundation. We need to replace 22,000 railroad ties, finish paying off the railroad purchase, purchase some rail and build a shop facility.

Exhibit No. 14-2.

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<sup>27</sup> While the website contains the disclaimer that it is "not an official website of the D&RG Historical Foundation," it directs would-be donors to "Please make your Tax-Deductible check to: D&RG Historical Foundation" and gives as the mailing address to which to send donations the address of the D&RGHF, 1474 Main Avenue, Suite 223, Durango, Colorado. Coincidentally, the address of the D&RGHF was, until recently, the same as the business address of Mr. Shank. Shank VS at 1 (filed Jan. 20, 2004). The administrator of the website, Richard Cutter, is also obviously an acquaintance of Mr. Shank, as mentioned in photos posted on the website. See Exhibit No. 14-4.

In return for cash donations, D&RGHF enables tax exemptions for the donors and, depending on the size of the donation, a commemorative certificate as an honorary gandy dancer, brakeman, conductor, or engineer. For a \$4,500 contribution, you also receive “FREE Lifetime Membership, A 200 foot stretch dedicated in your name, A Memorial surprise.” For a contribution of “\$11,250+” you can “Own a Curve”, which will be “dedicated in your name, a loved ones name, on a Memorial Plaque, A Dedication Ceremony, Plus some very unique special privileges.” You can also earmark your donation for a particular portion of the rehabilitation project, such as the “Creede Branch Rehabilitation,” the South Fork Restoration Facility,” or the “Creede Depot.” Now, this last project is especially interesting, because, as Concerned Citizens explain later in Part III of this Petition, the D&RGHF does not own or have any say in the maintenance of the Creede Depot, which was recently rehabilitated by the Creede Historical Society. So, how can the D&RGHF solicit donations for a building it does not own? And what does D&RGHF do with contributions earmarked by donors for the Creede Depot Project?

The small amount of donations reported on D&RGHF’s tax returns suggests that it is not raising “significant donations” through the above solicitations.

D&RGHF also is trying to raise funds through the internet sale of T-shirts, mugs, and other memorabilia. See Exhibit No. 14-3.

In his Rebuttal of Adjacent Landowners’ Statement, Mr. Shank’s description of the D&RGHF’s financial situation also did not sound like an organization with financial resources adequate to restore the Creede Branch:

BUT, think about this: our foundation is not unlike most charities or even churches. They are all dependant upon pledges. Those pledges sometimes materialize into donations and some never materialize at all. However, a

charity's budget for the future is based upon these pledges and often times fall short. This is not unlike our Japanese Billionaire that pledged \$1 million to DRGHF and then funded \$250,000 that was sent to the UP.

Shank VS, Appdx. DHS-8 at 4 (filed Jan. 20, 2004).

The D&RGHF's tax returns do not show any significant assets other than the Creede Branch itself and no funds for rehabilitation. This asset is presumably encumbered by a security interest UP has to secure payment of its note. In Conrail Abandonment, where, like D&RGHF, the offeror was a non-profit with no assets and no firm pledges, the Board's predecessor found that the offeror "has not shown that it has the financial resources to meet these [rehabilitation] costs." 1987 ICC LEXIS 477, \*22-23.

As the Board knows from other protestants in these proceedings, after the Board approved its purchase of the Creede Branch, D&RGHF also attempted to collect rents from various persons, claiming that their buildings or activities had encroached upon the D&RGHF's newly acquired right-of-way.<sup>28</sup> These rentals did not generate an appreciable amount of funds for D&RGHF. After being notified by the Colorado Attorney General's Office that D&RGHF was improperly trying to collect rents from land that, while part of the right-of-way, was not being used for railroad purposes, and was owned by the State of Colorado, D&RGHF ceased trying to collect some of these rents. Exhibit No. 17.

What "the totality of the evidence," including new evidence, in these proceedings shows is that the D&RGHF never had anywhere near the financial resources to rehabilitate and operate the Creede Branch, and it was material error for the Board to find

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<sup>28</sup> These persons included individuals, the City of Creede, and Mineral County. For example, the maintenance garage and yard for Mineral County has been situated for many years on land that D&RGHF now asserts is part of its right-of-way.

that D&RGHF was financially responsible. How can an offeror with no meaningful assets, which depends, inter alia, on the sale of t-shirts and railroad memorabilia, the collateral value of a model train collection of uncertain ownership, the claim that the founder's ex-wife witnessed his joy when an anonymous Japanese benefactor phoned a pledge of \$1 million (which did not materialize), and applications (later withdrawn) for federal grant money, possibly be considered financially responsible for purposes of Section 10904? To ask the question, is, of course, to answer it.<sup>29</sup>

There is a certain irony here. D&RGHF has been trying to raise funds by enabling tax exemptions for persons willing to contribute money or used equipment to the D&RGHF and by seeking federal grants. In effect, the taxpayers are being asked in one way or another to subsidize the substantial cost for rehabilitation of an out-of-service line for which there is no demonstrable shipper demand, all while the D&RGHF's true motive is to operate a historic railroad and build a train museum. The D&RGHF has only been able to implement this attempted scheme for federal subsidies because of the franchise that the Board granted the D&RGHF when it approved its OFA. Surely, this is not what Congress had in mind when it enacted Section 10904.

3. The Petition To Reopen, Including That Of Concerned Citizens, Is Not Contrary To The OFA Provisions

Finally, the petitions to reopen filed in this proceeding, including that of Concerned Citizens, are not contrary to "the intent of the OFA provisions." 2004 STB

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<sup>29</sup> See, e.g., Shank VS, Appdx. DHS-8 at 3-4 (filed Jan. 20, 2004). D&RGHF cannot make up for its lack of financial resources with a claim that it relies on the free labor of volunteers. It is one thing for well-meaning volunteers to come out and move rocks off of the tracks or cut down trees. Volunteers are not going to rehabilitate the bridges and perform other sophisticated rehabilitation work, such as shoring up the roadbed where it is in danger of falling into the Rio Grande River.

LEXIS 378, \*15-16. As the Board stated in Roaring Fork Railroad, “[t]he OFA process is designed for the purpose of continuing freight rail service.” 1999 STB LEXIS 299, \*8.

And, as explained above, and in Board precedents, the purpose of the financial responsibility requirement is not only to protect the owner of the line, in this case UP, it is also to ensure that the offeror can meet its responsibilities under Section 10904 to restore and continue freight service. Those responsibilities extend beyond the ability to pay the seller. They extend to being able to follow through and actually restore freight service where a need has been demonstrated. Throughout these proceedings, protracted though they may be, the Board has never seriously examined the financial ability of D&RGHF to complete its purchase and rehabilitate and restore freight service on the Creede Branch. The record and objective reality show that it does not have that ability and never has. It is the D&RGHF’s attempt to use the OFA provisions to establish a historic tourist railroad that is contrary to the intent of the OFA provisions.

And, it is of no moment that the sale “closed” four years ago. The passage of time does not alter the fact that D&RGHF’s OFA does not satisfy Section 10904 and should have been rejected. Concerned Citizens would note that D&RGHF itself did not come forward with its supposed showing of shipper interest until January 2004, four years after the Board approved the sale. The passage of time also does not excuse the Board from following the requirements of Section 10904 and its own precedents.

### III. D&RGHF Has Misrepresented The Condition Of The Branch

We review here the current condition of the Creede Branch, because, as explained above, the substantial rehabilitation needed goes directly to (1) whether there was any reasonable expectation of a sufficient traffic base justifying the rehabilitation, and

(2) whether D&RGHF has the financial capability to rehabilitate the Branch and provide freight operations.

The D&RGHF would like the Board to believe that, in the four years since it closed the purchase of the Creede Branch, it has made substantial progress in rehabilitating the Branch. This is clearly not true.

Relying upon the Shank Verified Statement (filed Jan. 20, 2004), the Board stated in its June 22 Decision as follows:

[D&RGHF] has cleared the line of vegetation and debris and has shored up the roadbed adjacent to a river. D&RGHF has also installed hundreds of cross-ties, rail lengths, angle bars, tie plates and spikes. The majority of the line has been brought back into gauge and D&RGHF has also replaced three road crossings and has installed a new crossing at South Fork, CO.

Decision at 7. What is interesting is what D&RGHF has not done in the last four years -- operate a train over the line! In fact, the Branch remains inoperable. This is demonstrated by the photographs taken during the first week of October 2004, and which are in Exhibit No. 18. These pictures show that most of the ties on much of the Branch are rotted or missing. For example, Exhibit No. 18-6 is a picture of the "Silver Bridge" over the Rio Grande River on the Branch, showing ties missing on the approach to the bridge. The ties on the bridge are rotten. This bridge, as well as wooden pile bridges over the River, have not been used or maintained in over 30 years and themselves are even older. D&RGHF has never made any showing that they remain structurally sound or are capable of supporting modern locomotives or loaded freight cars weighing hundreds of tons each.

Exhibit Nos. 18-7, 8 show the rotten condition of the ties. These pictures are typical of the condition of the track along the Branch. The Board states that, in four years, the D&RGHF has replaced “hundreds of ties.” But, as explained, the D&RGHF website itself reported that 22,000 ties needed to be replaced. In reality, many more ties need to be replaced. These photos also show that spikes are still missing from many tie plates.

The photos in Exhibit Nos. 18-3, 4, 5, 10 show that there is no ballast left supporting the track. It was eroded away years ago.

D&RGHF asserts that the track is in gauge. The photos submitted with this Petition cast doubt on that assertion, given the rotting and missing ties, missing spikes, and lack of ballast. But, even if the track were in gauge, that does not mean that the track can support trains. The little speeders that the D&RGHF uses for maintenance efforts weigh only a small fraction of a locomotive or loaded (or empty) freight car.

These photos show that vegetation has not been completely cleared away from the track. See Exhibit Nos. 18-1, 2. There is still much of the track that is overgrown, indeed, in some places, you cannot even tell there is a railroad there. See Exhibit No. 18-12.

D&RGHF claims to have cut down thousands of trees which had grown up between the rails. The Concerned Citizens believe that such a number is exaggerated. But, the photos in Exhibit Nos. 18-1, 2 show that trees still grow immediately next to the rails and ties, such that a train would not have clearance to traverse these segments.

Mr. Shank stated that “[t]he Foundation has replaced rock cribbing and has shored up the roadbed where it is adjacent to a river.” Shank VS at 3 (filed Jan. 20, 2004).

Concerned Citizens do not know whether this is true. But, there are still places where the roadbed needs to be shored up adjacent to the Rio Grande River, as shown, e.g., in the pictures in Exhibit Nos. 18-8, 9.

Mr. Shank further stated in his Verified Statement (at 3) that “[a]ll other crossings have been cleared and made safe for both railroad employees and the motoring public except those in Creede, where the City refuses to honor its crossing agreements. However, the picture in Exhibit No. 18-11 shows that Colorado Highway 149 has been paved over the Branch several miles before it reaches Creede.

More recently, in Finance Docket No. 34376, D&RGHF states that there is a four-track yard in Creede and that “[a]ll four of those tracks and depot are necessary for the safe and efficient operation of freight and passenger trains in the South Creede railroad yard.” D&RGHF Reply Statement at 5 (filed Sept. 13, 2004). According to D&RGHF, the yard will be used “for spotting empty freight cars; delivering loaded freight cars; loading and unloading of freight shipments. . . .” Id. at 5. Another Verified Statement of Mr. Shank accompanying that Reply explains that “[t]he Foundation intends to rehabilitate those tracks and the depot in conjunction with reinstating rail service over the entire Derrick-Creede rail line.” Shank VS at 3.

There is no four-track yard in Creede. Most of the tracks in Creede have been buried or pulled up years and years ago, as the pictures in Exhibit Nos. 18-14, 15, 16, 17 show. These pictures, like all of those of Concerned Citizens, were taken in early October 2004. Even the pictures submitted with the Shank Verified Statement show that some of these tracks are buried or just gone. There may have been a yard there three decades ago, but today, this property is used for other purposes such as parking and a

playground. Incidentally, the land on which the yard was located was not owned by the Denver & Rio Grande Western Railroad or its successors. The land is owned by the State of Colorado through the Colorado State Land Board. The railroad has the right to use the right-of-way in the City, but only so long as it is used for railroad purposes. This is one of the ways that D&RGHF, i.e., Mr. Shank, benefits from being allowed to use the OFA provisions to acquire the Branch. It can try and argue that the land is still being used for railroad purposes, because it has not been technically abandoned. As explained, this is just one way in which D&RGHF is improperly trying to use Board jurisdiction to avoid the operation of property law.<sup>30</sup>

As for the depot, the D&RGHF does not own the depot or the land upon which it is located. The Denver and Rio Grande Western Railroad sold the depot to Mineral County in 1961. See Exhibit No. 19. Mineral County transferred the depot to the Creede Historical Society, which has operated a museum in the depot for many years. The depot was recently renovated by the Creede Historical Society in part with funds from the State of Colorado. See Exhibit No. 20.

As for the claimed need to rehabilitate the yard for freight shipments, again, what freight? What shippers? D&RGHF has still never identified any committed shippers. It is uncontested that there are no shippers on the line in Creede or elsewhere.

Finally, D&RGHF will need to expend significant funds to restore the donated surplus passenger and freight cars and locomotives it has been accumulating. Some of this equipment can be seen rusting on a siding of the San Luis & Rio Grande in South

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<sup>30</sup> As explained, the Board has repeatedly stated that its jurisdiction and the OFA provisions cannot be used “to shield a railroad or any other party seeking relief before us, from the legitimate misuse or abuse of our processes in this matter. . . .” Redmond-Issaquah at 1998 STB LEXIS 200, \*5-6.

Fork. Photographs of this equipment on D&RGHF's website show that it is in poor condition. See, e.g., Exhibit No. 21. D&RGHF would also have to construct facilities at South Fork and Creede to receive and handle passengers. There is no depot at South Fork and, as explained, the Creede Depot is not available to D&RGHF.

IV. The Potential To File For Adverse Abandonment Does Not Cure The Material Errors In The Board's June 22 Decision

Implicit in the June 22 Decision is the suggestion that persons can always file a petition for adverse abandonment against the D&RGHF. However, this possibility does not cure the fundamental threshold problem that the D&RGHF's OFA never satisfied the statutory criteria the first place. It also does not protect the integrity of the Board's OFA procedures. And, it does not cure the problem that, until an adverse abandonment petition is filed and decided, D&RGHF can continue to try and cloak itself in the mantle of Board imprimatur as a rail carrier and shield itself from state and local law. The Concerned Citizens and others should also not have to bear the expense and effort of an adverse abandonment proceeding, when D&RGHF will have never have operated as a rail carrier and its OFA should have been rejected.

CONCLUSION

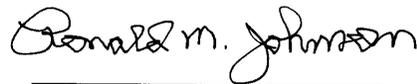
In rejecting an OFA in Redmond-Issaquah, the Board stated as follows:

The record indicates that no traffic has moved over the line in almost 2 years, that any prospect for future traffic is highly speculative, and that the cost to rehabilitate the line is substantial. In short, given all the circumstances, it is not reasonable to believe that the offeror would make the substantial investments required to rehabilitate the track (including the replacement of a bridge) in order to pursue rail traffic that ceased long ago and that, based on the shipper statements submitted by RIRPA [the offeror] itself, does not show any real likelihood of returning. This is particularly true where, as here, the offeror is not an

entrepreneur with a track record of running short lines and  
a sound business plan to attract new shippers. . . .

1998 STB LEXIS 200, \*21-22. Except that the Creede Branch has been out of service  
for more than 25 years, instead of two, the above passage applies equally to these  
proceedings. The Board should reopen its June 22 Decision, find that the D&RGHF did  
not satisfy the statutory requirements of Section 10904, grant UP's abandonment  
exemption and exempt that abandonment from the OFA provisions of Section 10904.

Respectfully submitted,



---

Ronald M. Johnson  
Heidi Gunst  
Akin, Gump, Strauss, Hauer & Feld, LLP  
1333 New Hampshire Avenue, N.W.  
Washington, DC 20036  
202-887-4114

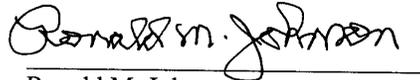
Counsel for Concerned Citizens of  
Creede and Mineral County, Colorado

Dated: November 5, 2004

VERIFICATION

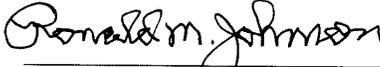
I, Ronald M. Johnson, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this pleading.

Executed on: November 05, 2004

  
\_\_\_\_\_  
Ronald M. Johnson

CERTIFICATE OF SERVICE

I hereby certify that I have caused the foregoing document and related exhibits to be served upon the following parties by first class mail pre-paid this 5th Day of November, 2004.

  
Ronald M. Johnson

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For the City of Creede

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1400 Douglas Street  
Stop 1580  
Omaha, NE 68179-0001  
For the Union Pacific Railroad Company

212462

BEFORE THE  
SURFACE TRANSPORTATION BOARD



\_\_\_\_\_  
Docket No. AB-33 (Sub-No. 132X)  
\_\_\_\_\_

Union Pacific Railroad Company  
-- Abandonment Exemption --  
In Rio Grande and Mineral Counties, CO

\_\_\_\_\_  
EXHIBITS TO THE  
PETITION TO REOPEN  
OF CONCERNED CITIZENS OF CREEDE  
AND MINERAL COUNTY, COLORADO  
\_\_\_\_\_

Ronald M. Johnson  
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202-887-4114

Counsel for Concerned Citizens of  
Creede and Mineral County, Colorado

Dated: November 5, 2004

1

**Concerned Citizens of Mineral County Association**

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2



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**ALAN J. GILBERT**  
Solicitor General

**STATE OF COLORADO**  
**DEPARTMENT OF LAW**  
OFFICE OF THE ATTORNEY GENERAL

**STATE SERVICES BUILDING**  
1525 Sherman Street - 5th Floor  
Denver, Colorado 80203  
Phone (303) 866-4500  
FAX (303) 866-5691

June 21, 2000

Via Facsimile & U.S. Mail  
(970) 259-0202

Don Shank  
Denver & Rio Grande Railway  
Historical Foundation  
1474 Main Avenue, Suite 223  
Durango, CO 81301

**RE: Creede R.O.W. Leases**

Dear Don:

I received your faxed correspondence dated June 8 and 9, 2000 concerning the four leases on the Creede right-of-way (R.O.W. 1757, issued October 24, 1969). Based upon this correspondence and our recent telephone conversation, I believe there may be some misunderstanding as to the rights and obligations of the Historical Foundation and the Land Board with respect to the right-of-way. I would like to take this opportunity to clarify the Land Board's position with respect to these issues.

Initially, I want to emphasize that pursuant to paragraph 2 of the right-of-way, the grant is for the sole purpose of "constructing, reconstructing, operating and maintaining a railroad and appurtenances . . ." "Additional non-railroad uses of the property by the Historical Foundation," without Land Board consent, will not be tolerated.

I also want to point out that the rights of the parties to sublease of any portion of the section 36 right-of-way are governed by the 1969 right-of-way document. This principle was reiterated in paragraph 4 of the May 18, 2000 letter agreement the Land Board entered into with Union Pacific and holds true for all leases, including any that may pre-date the issuance of the 1969 right-of-way.

With respect to subleasing, upon proper notice to the Land Board, the Historical Foundation may sublet portions of the right-of-way not used for its railroad operations to the railroad's "customers" or for other uses "compatible with railroad business or operations." What uses are considered to be "compatible with railroad business or operations" is not defined. In

Don Shank  
June 21, 2000  
Page 2

addition, the Land Board must be notified of any railroad-related leases within 60 days of this letter or the date of issuance.

However, in that same paragraph (§14), the right-of-way agreement specifically prohibits the Historical Foundation from subletting or permitting the use of portions of the right-of-way for purposes "not connected" with the railroad's operations or business without the written consent of the Land Board. As such, it would appear that notice is required for railroad-related leases, while written consent is required for non-railroad related leases.

In addition, paragraph 12 of the right-of-way specifically reserves to the Land Board the right to use, sell or otherwise dispose of any portion of the right-of-way, except as necessarily limited by the railroad "facilities." As such, subject to your right-of-way, the Land Board may sell, lease or otherwise dispose of the land in any manner to the extent that it does not interfere with railroad operations.

With respect to the current four leases, since none of these leases appear to be connected with railroad business or operations, the Land Board's consent was to be obtained for those leases. As you know, this consent was never obtained. Accordingly, the Land Board will insist that the Historical Foundation terminate all non-railroad leases immediately. Upon review, the Land Board may re-issue some or all of these leases, or grant a temporary right-of-entry to these parties. Any such lease or temporary right-of-entry will be subject to the terms and conditions of the right-of-way.

As I indicated to you recently, the Land Board is under a duty to control its trust assets and to obtain revenue from the right-of-way property. Even with your purported assignment of rental payments, these objectives are not adequately met. The Land Board believes that it should issue and control any non-railroad leases.

Please contact me if you have any questions concerning this letter or if the Historical Foundation will not agree to terminate the non-railroad leases and/or give notice of any leases for railroad purposes.

Sincerely,

FOR THE ATTORNEY GENERAL



M. PATRICK WILSON  
Assistant Attorney General  
Natural Resources and Environment Section  
(303) 866-5127  
(303) 866-3558 (FAX)

Don Shank  
June 21, 2000  
Page 3

cc: Larry Buzick/SLB  
Bill Killip/SLB  
Merle Knous/City of Creede  
Mineral County Commissioners  
Dave Klegger/Creede Historical Society  
Tomkins Hardware Co.

**DENVER & RIO GRANDE RAILWAY  
HISTORICAL FOUNDATION**  
A COLORADO NOT-FOR-PROFIT/TAX-EXEMPT CORPORATION

July 21, 2000

Sent Via Facsimile and U.S. Mail  
(303) 866-3558

M. Patrick Wilson  
Assistant Attorney General  
Natural Resources and Environment Section  
1525 Sherman St. - 5<sup>th</sup> Floor  
Denver, CO 80203

RE: Creede Branch R.O.W. Leases

Dear Pat:

I am in receipt of your letter dated July 10<sup>th</sup> and feel compelled to share my perception of our current position. It would appear that the DRGHF and AGO/CSLB are out of sync. In our initial discussion referring to R.O.W. 1757-17 and the four sub-leases within Section 36, I felt we were separate entities working towards a common goal. At the present time I feel we have somewhat drifted from that objective.

Per your June 21<sup>st</sup> letter, we complied with your demand to terminate all non-railroad leases immediately. This was done, per the terms and conditions dictated by the respective lease documents, a copy of which accompanied each termination notice. It became readily apparent that the AGO/CSLB intended to simply remove the DRGHF from the sub-leasing process as Lessor, and place the CSLB in the position.

I believe we are both in a complete understanding of Paragraph 12, of the 1969 indenture and the rights and powers applicable to both the CSLB and the DRGHF. Accordingly, at this time, DRGHF has every intention of utilizing the entire railroad yard, as constructed, and subsequently modified by the D&RGW during its 80 +/- years of operation, with the possible exception of the right-of-way under the depot, only. This portion, as sub-leased to the Mineral County Board of County Commissioners, and although terminated as directed by your office, is currently under review. A meeting took place on the 19<sup>th</sup> between DRGHF and Creede's Historical Society and County Commissioner at which time a proposal was made by DRGHF that may work out for the CHS/MCBCC. If it does, DRGHF will redraft a new sub-lease agreement, submit it to AGO/CSLB for approval and create a win/win/win scenario for everyone. We will keep you informed as to our progress.

DRGHF will continue its efforts to reopen the Creede Branch. The space available within the confines of the railroad yard in Creede will prove immensely helpful during rehabilitation/reconstruction and the eventual operation of the line.

FOUNDATION OFFICE: 1474 MAIN AVENUE, SUITE 225, DURANGO, CO 81301  
TEL: 970.259.9498 FAX: 259.0202 E-mail: drghf@frontier.net

Patrick Wilson

July 21, 2000

Page 2

We have cleared 18 of the 21.6 miles of right-of-way. Subject to replacing some broken and stolen rail, we will arrive in Creede with our maintenance-of-way equipment during the month of August. It has taken an immense effort to open the majority of the line, but we can see light at the end of the tunnel. No pun intended.

DRGHF looks forward to working in harmony with the AGO/CSLB towards the rebirth of the Denver & Rio Grande Railway.

Sincerely,

Donald H. Shank  
President, DRGHF

Cc: Tom McFarland, DRGHF counsel  
Bob Opal, U.P.R.R. Law Dep't.  
Charles Bedford, CSLB

**City of Creede**  
A Colorado Town

P.O. Box 457  
Creede, CO 81130  
(719) 658-2276  
Fax 658-2017



August 26, 2000

William J. Killip, II  
Special Projects Manager  
Board of Land Commissioners  
Department of Natural Resources  
1313 Sherman St., Room 620  
Denver, CO 80203

Dear Bill:

This is in response to Mr. Shank's letter of August 25<sup>th</sup> to you.

As for the main track located west of the Museum, in the 1960s, the railroad sold its depot to Mineral County to be used as a Museum and removed all of its railroad facilities surrounding the Museum. In 1972, the railroad, without ICC approval, discontinued its rail service to Creede. In the 1970's, without your approval, it subleased a portion of its right-of-way to the City for "parking," and permitted the City to use the area west of the Museum for public purposes. As a result of these new uses, the City rezoned this area residential in the 1970s. Therefore, the DRGHF cannot lawfully use the area west of the Museum as a "railroad yard," and, therefore, Mr. Shank's proposal for Lease #1 is **TOTALLY UNACCEPTABLE** to the City.

As for Lease #2 concerning a portion of the City's ballpark, according to the 1969 agreement, the railroad was leased "all land lying 75 feet on the easterly side of the center line of the rail's main track . . ." Mr. Shank proposes a distance of twenty-five (25) feet on the easterly side of the centerline. We have no objections to his proposal.

As for the area west of the centerline, he proposes, "to construct a by-pass track in this location." His by-pass track would be located in the middle of a City street. If constructed, the residents in that area may not be able to drive to and from their homes; therefore, you and the City need a more detailed statement from Mr. Shank before such a proposal could be accepted. As for Mr. Shank's proposal that the City fence the area east of the mainline, maintain the drainage ditch, relocate the "jersey barriers," fill the old ditch, and reroute the ditch, all these items are within DRGHF's proposed easterly 25-foot right-of-way. If DRGHF, with your approval, wants to fence, maintain the ditch, relocate the "jersey barriers," fill the old ditch, it may do so subject to the City's and Colorado Department of Highway specifications and approval.

While it does not fall within your jurisdiction, as to the City agreeing to return to DRGHF "all railroad rail, switch components, associated material, and railroad crossing signs and posts now in the possession of the City," the City is not clear on what DRGHF is referring to. If DRGHF would be more specific, then the City could answer more specifically.

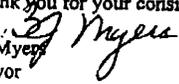
William J. Killip  
August 26, 2000  
Page 2

As for DRGHF's proposal that it lease land to the City, the City objects. This is your land, not DRGHF's land. As you are the owner of this land, the City desperately needs your active participation because of the past following events:

1. In a letter from Mr. Shank dated June 29, (cc to you) which he claimed to be acting in accordance with your direction, the City was served a Notice of Termination effective 30 days from the date the letter was received (July 5<sup>th</sup>)
2. In a letter dated August 4 (not cc to you), Mr. Shank told the City that by September 5<sup>th</sup> it had to remove all "improvements" and restore the right-of-way and track structure or the DRGHF would remove it for the City and charge the City for the removal and restoration. In addition, Mr. Shank warned the City of the installation of "No Trespassing" signage, possible fencing, which might subject our citizens to arrest, fines or incarceration that is not inconsistent with today's railroad."
3. In a letter dated August 11 (not cc to you or the City) Mr. Shank informed the Mineral County Sheriff that he was going to fence and post his no trespassing signs and that "we will be in Creede within the next few days to install those signs and begin fencing the railroad's right-of-way through Creede." He also "requests the Mineral County Sheriff's Office to enforce the right of the railroad subject to the placement of "No Trespassing" signs and fencing. Since this is your land, had never been fenced in over 100 years, and the City for the past 28 years has lawfully used the land for public purposes, we believe Mr. Shank should have proceeded by a Court Process where the City would have had an opportunity to answer with respect to No Trespassing signs and fencing.
4. On August 19 (without notice to you and the City and without a Court Order) Mr. Shank fenced and posted his no trespassing signs and, as expected, some of our citizens protested, were arrested and charged with a criminal offence. All of which could have been avoided if Mr. Shank had given the City its day in Court.

Now, in his letter to you, it appears that Mr. Shank is offering more reasonable solutions. However, as owner of the land in question, and to protect us from any future arbitrary acts, we respectfully request our lease agreements to be with the State Land Board, not Mr. Shank.

Thank you for your consideration.

  
BJ Myers  
Mayor

cc: Pat Wilson  
Mineral County Commissioners  
Don Shank

# DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION

A COLORADO NOT-FOR-PROFIT/TAX-EXEMPT CORPORATION

September 11, 2000

William J. Killip, II  
Special Projects Manager  
Board of Land Commissioners  
Department of Natural Resources  
1313 Sherman St., Room 620  
Denver, CO 80208

Re: Right-of-Way Leases in Creede

Dear Bill:

It would appear we are all becoming pen pals. I have corresponded several times by phone with Pat Wilson at the AGO. In our (Pat and my) conversations we have both come to the conclusion that an immense amount of time is being spent on issues that shouldn't require the vast, repetitious rehash over a federally approved railroad right-of-way.

I am in receipt of the August 26 letter to you from B.J. Meyers, Mayor of Creede. Once again I am astounded by the city's repeated attempt to invalidate the existence of the right-of-way within Section 36, and more specifically the rail-yard facility. As stated by Ms. Meyers, the city zoned a non-defined area for residential usage. Once again this represents an attempt to ignore the pre-emptive federal rights associated with the railroad's historic right-of-way, and DRGHF's right to utilize what we purchased. The Creede Branch pre-dates the existence of the City of Creede by a year, 1891 v. 1892. The line has never been abandoned. A discontinuance of service does not constitute an abandonment. A formal ruling would need to have taken place by the ICC/STB in Washington, and through our purchase, the UPRR's "exemption of abandonment" filing was dismissed on the line purchase consummation date, May 24, 2000.

Perhaps it is time for DRGHF to simply pose the question to the CSLB/AGO:

GENTLEMEN, are you denying the existence, viability and transferability of, and DRGHF's right to utilize our railroad right-of-way, as defined in the October 24, 1969 Indenture, the purchase of which was approved by the United States Surface Transportation Board in STB Docket No. AB-33 (Sub-No. 132X), Decision served May 11, 1999, and consummated on May 24, 2000? We need to know, now. If the State of Colorado is disputing the right-of-way and/or the right of DRGHF to utilize the same via the 1969 Indenture, please explain the basis of your claim. It was our understanding, as well as the STB's and the UP's, that ALL the right-of-way purchased from the Union Pacific Railroad, including any and all agreements, transferred through the line purchase and ALL of the right-of-way includes that portion within and through Section 36, Township 42 North, Range 1 East, 6<sup>th</sup> Principal Meridian. Please forward any dispute or claim immediately to the address below. I don't believe there are any or you never would have received the negotiated settlement between the UPRR and the CSLB/AGO in May of this year.

FOUNDATION OFFICE: 1474 MAIN AVENUE, SUITE 225, DURANGO, CO 81301  
TEL: 970.259.9498 FAX: 259.0202 E-mail: drghf@frontier.net

Right-of-Way Leases in Creede

September 11, 2000

Page 2

This line purchase represents a continuous right-of-way, defined by the STB as that portion of Union Pacific Railroad in Rio Grande and Mineral Counties, Colorado, between Mile Post 299.3 in South Fork (Derrick) to Mile Post 320.9 in Creede, well above the Section line between 36 and 25, through, and including the railroad yard in Creede. The ownership of the right-of-way within Section 36 is NOT, nor has NOT been disputed by DRGHF. We remain fully aware that the 11.04 acres defined within the R.O.W. agreement # 1025 and the subsequent 1969 Indenture # 1757-17, is held in fee by the State for the School Board and governed by the CSLB. The 11.04 acres continues to remain State land, subject to the railroad's right-of-way.

In a recent phone conversation with Pat Wilson from the AGO, Pat informed me that he was advising you (Bill) not to proceed with the execution of lease documents to either the City of Creede, nor to Mineral County until such time as we ALL have had the opportunity to examine and approve the subject area defined within each respective lease.

DRGHF forwarded our recommendations regarding leases within the railroad's right-of-way in our letter dated August 25, 2000, to your office. This conciliatory act by DRGHF once again represented a compromise and solution to the concerns of the City of Creede and Mineral County. DRGHF has to date made several attempts to negotiate in good faith to resolve the issues raised and continues to offer concessions in hopes of achieving harmony between the city, county and the railroad. Unfortunately, DRGHF does all the giving and certain members of the political body of Creede that claim they represent the entire town, offer nothing in return but rhetorical stone-walling, defiance and the repeated denial of our legal right to utilize what we purchased. The recommendations defined in the 8/25 letter represent the maximum space we will allow to be sub-leased.

On page 2 of the 8/26 letter to you from BJ, she objects to our (DRGHF) proposal that we act as "Lessor" regarding land leased to the city. She further asserts that "this is your land, not DRGHF's land". Once again, DRGHF has never disputed the States title, however, when dealing with any area within our right-of-way, we are in fact referring to "our land". The 1969 indenture grants "the right to operate, construct, reconstruct, and maintain a railroad" on our right-of-way "over, upon, under and across the surface." Why does everyone have such a difficult time recognizing this? Our intent in acting as "Lessor" is based upon the necessity of certain inclusions regarding what can and cannot be done on and to railroad property, insurance requirements, the standard thirty day termination clause and specific terminology addressing vacating the premises upon termination. Case-in-point, the City of Creede no longer has the right to utilize any portion of the railroad right-of-way. The State owns the underlying land, the railroad owns the right-of-way over and through the States land, as purchased from the UPRR, via a fully approved transaction through the STB. The city at one time had a lease for a portion of the r-o-w, which they chose to stop paying six (6) years ago, and furthermore, DRGHF in a directive from the CSLB/AGO terminated the lease, at all times adhering to the terms and conditions of said lease, which gave the city thirty (30) days notice of termination, then followed with the appropriate notice to vacate once again in full compliance with the terms and conditions of the lease document. We remain at odds with the city. We recently received notice from Creede's City Attorney, Robert S. Crites, Jr., that "the city will not vacate the premises and any DRGHF attempt to remove the city's personal property will be resisted and DRGHF will be held judicially accountable." Did the city suddenly become the owner of the railroad yard? I think not.

Right-of-Way Leases in Creede  
September 11, 2000  
Page 3

On the morning of Thursday, September 7<sup>th</sup>, I met with Colorado Attorney General, Ken Salazar while in Creede. He was in the presence of Creede City Councilmen. I was invited to join them on a tour of the railroad yard and right-of-way. As a result of that meeting Mr. Salazar is desirous of a meeting in Denver between ONE member of Creede's City Council, myself, a U.S. Federal Attorney, and I believe Charles Bedford. In view of this I recommend that all consideration of any kind to leasing, sub-leasing, or disposing of state land be tolled until such time as this meeting and its resolution have taken place. This is only a suggestion Bill.

DRGHF has contacted the legal departments at both the Surface Transportation Board and the Union Pacific Railroad. Since Creede had filed appeals and protest prior to the consummation of the line purchase, and those appeals and protests were reviewed by the entire Board at the STB, and each and every issue was DENIED by the Board, DRGHF promptly moved to the closing table the same day, May 24<sup>th</sup>, the legal representatives in Washington will, if necessary, stand alongside the DRGHF in a court of law. They DO NOT understand the enthusiasm displayed by B.J. Meyers, Sandra Wright and Merle Knous to drag this into court and waste Taxpayer/Foundation dollars.

A glaring fact to this entire debacle keeps rising to the top. The City of Creede cannot deny the existence of the right-of-way, nor the right of DRGHF to utilize exactly what it purchased. The city made an issue regarding the property taxes paid by the UPRR and the potential impact from the loss of those taxes through the sale of the Creede Branch to the DRGHF. Up until the transfer of ownership to DRGHF this year, had the city/county ever chosen to NOT cash the D&RGW/SP/UP's check? If they really felt the right-of-way no longer existed, why would they cheerfully accept and spend payment for right-of-way no longer in the railroad's possession? Food for thought.

DRGHF is currently opening the line for a total maintenance assessment. That includes the vitally important railroad yard. We have cleared 19 of the 21.6 miles for maintenance-of-way vehicles. We need to do the same in the rail-yard facility in Creede. It was inappropriately buried by the city. We need to know what we have to work with and we need to know NOW. Their lease is terminated. They have no right to be there. We have made several concessions to mitigate the standoff between us. The City of Creede has been totally inflexible and unrealistic. We want them off railroad property, within the railroad yard. The proposed lease to the city of our railroad yard is, once again, NOT ACCEPTABLE. The lease to the city of land at the ballpark as drafted by my office IS acceptable, once again with the following requirements:

1. The drainage ditch must be relocated and placed by the city, at their expense, inside the sub-leased area within its fifty foot width.
2. A fence will be constructed to the east of the drainage ditch, well inside the sub-leased area and will also be the sole expense of the City of Creede. This fence will act as the outfield fence for the ballpark.

Neither the ditch, nor the fence will reside within the remaining twenty-five foot active railroad r-o-w east of the mainline. These two requirements are non-negotiable. They are for the safety and protection of the public.

Right-of-Way Leases in Creede  
September 11, 2000  
Page 4

Without agreement from the city, DRGHF will not approve leasing the eastern-most portion on the 75 foot wide right-of-way, east of the main track, as defined on our map already in yours and the city's possession.

Regarding the city's request to lease r-o-w west of the mainline, the City of Creede acted inappropriately, without consent, in utilizing any railroad r-o-w in this area. They claim if we construct a by-pass track in this area it would be in the middle of a city street. How did a street get there anyway? DRGHF has seen nothing that supports any right-of-way lease for this street.

As for residents in the area, there are a number of older mobile homes well west of the railroad's right-of-way. There is sufficient space for them to access this area. As for BJ's demand for a more detailed statement from me regarding a proposal to construct another track within our right-of-way, we'll furnish a drawing that could include additional space for a residential roadway easement IF needed for those residents.

In response to the city's objections and the four items listed on Page 2 of BJ's letter, first of all, DRGHF should have the right to decide what portion of our right-of-way we may be willing to lease. I'm amazed the City of Creede feels they desperately need your help. Next we'll respond to the four numbered statements:

1. DRGHF did in fact act in accordance with a demand from Pat Wilson, Ass't. AG, in the cancellation of Lease # 16851 to the City of Creede, Leases #11057 & 14860 to Mineral County, and Lease # 17565 to Tomkins Hardware. CSLB was cc'd.
2. In accordance with the terms and provisions of their lease, the city was notified to remove all personal property by September 5<sup>th</sup>. The city and county agreed to these terms at the time they executed the lease documents. Unfortunately the new political power feels they needn't abide by the terms of the agreement executed by their predecessors. CSLB was not cc'd. This was simply a compliance matter between the railroad and the city.
3. I had spoken with the Mineral County Sheriff's Office after a face-to-face meeting with Creede's City Manager, Sandra Wright. I was informed by her that the city would not be complying with our request to remove their personal property and she was also informed that we would be posting the rail-yard. Again BJ states "this is your land". We once again do not dispute fee title to the State. We will operate our railroad through it and if we choose to fence it, that's our choice and our right. BJ further states that I should have taken this to court regarding no trespassing signs and fencing. This is nonsense. The city just wants us in court, period.
4. On August 19<sup>th</sup> we put up posts, signs and ran nylon twine between them to begin establishing the approximate boundaries of the railroad yard within Section 36. The city no longer had, nor has the right to be on railroad property. Just as with any railroad yard in America, they are posted, signed, and most often fenced. We are not going to apologize for each and every activity we perform in the resumption of rail-service to Creede and South Fork. We have a business to run. We have a business to rebuild. We paid a healthy price for the railroad which included the right to use and occupy the right-of-way, which we intend to do.

Right-of-Way Leases in Creede  
September 11, 2000  
Page 5

Finally, given the fact that per the terms and conditions set forth in the 1969 Indenture, the DRGHF assumed the risk of all injuries, including death resulting therefrom, I find it difficult to fault the DRGHF for posting the railroad yard. If the CSLB/AGO would prefer to assume all risk and liability associated with our right-of-way through Sec. 36, in writing, we'd be only too happy to pass the burden of drafting these sub-leases to the State. I suspect that neither the CSLB nor the AGO would be foolish enough to place themselves in that position. Why should DRGHF or the City of Creede ask the State to draft leases that becomes a potential liability within our active railroad right-of-way? Why would you want to?

We will be commencing restorative work very soon. We would prefer not to place the public at risk. The 1969 Indenture doesn't provide for r-o-w leasing by the CSLB. The State has the right to sell or otherwise dispose of said land and to use the same for all purposes, subject to our right-of-way.

DRGHF will provide a draft copy of the documents for sub-leases to the CSLB/AGO for consent and approval per the terms and conditions of our Right-of-Way Agreement #1757-17. We will do our level best to remain in full compliance with the CSLB.

In the event the City of Creede or Mineral County choose not to accept the terms and conditions identified above, or in a subsequent lease draft, then we will assume no interest exists in sub-leasing our right-of-way.

I hope this will put these issues to rest. The necessity for this continual correspondence and rehash of our position wastes a great deal of everyone's time, most of which is at tax-payer expense.

Thank you for your time and patience Bill. I'm certain we can move beyond this.

Sincerely,



Donald Shank  
President, DRGHF

Cc: Ken Salazar & Pat Wilson, AGO  
City of Creede  
Mineral County Commissioners  
Tom McFarland, DRGHF counsel



**ATTORNEY GENERAL OF COLORADO**  
**Ken Salazar**

September 19, 2000

Stephen Wardell, Chairman  
Rodney Winiz  
Karl Kolisch  
Mineral County Commissioners  
P.O. Box 70  
Creede, CO 81130

Honorable B. J. Myers  
Mayor of Creede  
P.O. Box 457  
Creede, CO 81130

Mr. Don Shank, President  
Denver & Rio Grande Railway Historical Foundation  
1474 Main Avenue, Suite 223  
Durango, CO 81301

Re: Creede Railroad Right-of-Way Dispute

Dear Mayor Myers, Commissioners and Mr. Shank:

On September 8 in Creede I spoke with Mayor Myers and other Creede and Mineral County officials about issues relating to Don Shank's efforts to establish a tourist railroad on the existing railroad right-of-way from South Fork into Creede. I informed you that I would look into the issues. After having met with attorneys in my office and Charles Bedford, the Director of the State Land Board, I make the following observations that might be helpful to you as you address the issues of the railroad:

1. It is true that the State Land Board right-of-way instrument includes language that states that the right-of-way will terminate automatically if the right-of-way is not used for railroad purposes for twelve consecutive months. I understand that this rail line has not been used for railroad purposes for some 27 years. Therefore, based on the literal reading of the State Land Board right-of-way, the railroad's right to use this land would have terminated a long time ago due to non-use for railroad purposes.

State Services Building - 1525 Sherman Street - 5<sup>th</sup> Floor - Denver, Colorado 80203  
Phone (303) 866-3557 • FAX (303) 866-4745

2. A question exists as to the interface of federal law concerning railroads with the authority of the State Land Board to enforce such termination provisions in its right-of-way documents. That issue may ultimately some day have to be resolved in court. My position as Attorney General would be to argue that the terms of the State's right-of-way documents are enforceable and are not abrogated by any federal authority.

3. Even if federal authority would preempt State authority concerning termination of the right-of-way (which the State would not concede), whatever rights, if any, Mr. Shank has acquired from the Union Pacific Railroad do not give Mr. Shank the authority to control the use of land within the right-of-way with respect to any non-railroad purpose, except as absolutely necessary for railroad operations. In other words, Mr. Shank has no right or authority under the law to limit any use of the surface lands or mineral rights within or under the right-of-way unless such use is entirely inconsistent and incompatible with legitimate railroad operations. The right to control the use of the land remains an exclusive right within the State of Colorado which, acting through the State Land Board, is the owner of the fee over which the right-of-way has been defined.

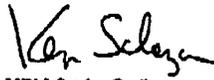
4. To the extent that Mr. Shank would attempt to collect remuneration from any user of property within the right-of-way, he is acting outside of any legal authority that we are able to identify.

5. I had thought that possibly arranging for a meeting among the local governments in Mineral County and Mr. Shank might lead to a resolution of these matters. However, I do not believe that we would be able to move this matter any further toward resolution because of the polarized position of the parties.

6. I recognize the difficulty that small communities like Creede and Mineral County have in dealing with such complicated legal disputes. I would hope that an easier and amicable resolution could be achieved. Perhaps a starting point would be to commission a comprehensive survey and title search of lands located in the disputed area.

If you have any questions, please call Patrick Wilson of my office at 303-866-3071.

Sincerely,



KEN SALAZAR  
Attorney General  
(303) 866-3557  
(303) 866-4745 (FAX)

cc: Greg Walcher  
Charles Bedford  
Patrick Wilson  
Merle Knous

3

Mail to: Secretary of State  
Corporations Section  
1560 Broadway, Suite 200  
Denver, CO 80202  
(303) 894-2251  
Fax (303) 894-2242

For office use only 014

MUST BE TYPED  
FILING FEE: \$50.00  
MUST SUBMIT TWO COPIES

19971086444 M  
\$ 50.00  
SECRETARY OF STATE  
05-20-97 12:48:45

ARTICLES OF INCORPORATION  
OF A COLORADO NONPROFIT  
CORPORATION

Please include a typed  
self-addressed envelope

The undersigned person(s) acting as incorporator(s) of a nonprofit corporation under the Colorado Nonprofit Corporation Act execute(s) the following Articles of Incorporation for such corporation:

FIRST: The name of the nonprofit corporation is: DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION

SECOND: The address of the initial registered office of the nonprofit corporation in Colorado is: 102 1/2 West 18th Street, Durango, CO 81301  
(Address must include building number and suite number, street (or rural route number), town or city and zip code. Include a P.O. Box if mailing address is different from street address)

and the name of its initial registered agent at such address is Donald H. Shank

THIRD: The nonprofit corporation (will/will not) (circle one) have members.

FOURTH: Provisions regarding the distribution of assets on dissolution are: See Article VIII attached hereto  
or more specifically: assets shall be distributed as per IRS 501 (c)(3) regs or by  
state or local gov't distribution or to an organization operated exclusively for  
such purposes, i.e. The Colorado Railroad Museum, Golden Colorado

FIFTH: The nonprofit corporation shall have Four (4) directors who shall serve as the initial board of directors.

The name and address of each director is: (This information is not required)

NAME OF DIRECTOR	ADDRESS (include zip code)
<u>Donald H. Shank Gayle A. Shank</u>	<u>102 1/2 West 18th Street, Durango, CO 81301</u>
<u>Robert A. Gram Robert W. Shank</u>	<u>300 West 32nd St, Durango, CO 81301</u>
	<u>1861 Harriet Dr., Clarksville, TN 37040</u>

SIXTH: The name(s) and address(es) of each incorporator(s) is:

NAME OF INCORPORATOR(S)	ADDRESS (include zip code)
<u>Donald H. Shank</u>	<u>102 1/2 West 18th Street, Durango, CO 81301</u>

The signature of each incorporator:

Donald H. Shank



COMPLETED  
CRW

Revised 7/95

**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  
19971073225 M  
\$ 50.00  
SECRETARY OF STATE  
05-19-97 10:37:54

**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

**ARTICLE VI**

The nonprofit corporation will have members. The general membership will be comprised of the contributors to the Denver & Rio Grande Railway Historical Foundation of either time, in the form of labor, and/or donation, in the form of monetary or memorabilia.

**ARTICLE VII**

The board of directors of this corporation shall have the power to make, from time to time, such bylaws for the management of the affairs of the corporation as may be necessary or proper, and after reasonable notice to all directors (or without notice if all directors consent thereto) to repeal, amend or alter the same or to adopt new bylaws. The board of directors shall have the power to fix the salaries of directors, corporate officers and agents and employees of this corporation. The board of directors shall have the power to appoint and remove officers, agents and employees of the corporation.

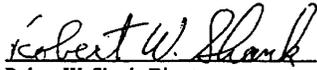
**ARTICLE VIII**

In the event of the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code (or corresponding section of any future Federal Tax Code), or shall be distributed to the federal government or to a state or local government, for a public purpose. Any such assets not so disposed of shall be disposed of by the Court of Common Pleas of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as the Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE IX

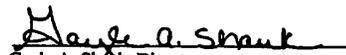
No part of the net earnings of the corporation shall inure to the benefit of, or be distributable to, its members, trustees, officers, or other private persons, except that the corporation will be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article III hereof. No substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the corporation shall not participate in, or intervene in any political campaign on behalf of any candidate for public office. Notwithstanding any other provisions of these Articles, the corporation shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from federal tax under Section 501 (c)(3) of the Internal Revenue Code, or corresponding Section of any future Federal Tax Code, or (b) by a corporation, contributions to which are deductible under Section 170 (c)(2) of the Internal Revenue Code, or corresponding Section of any future Federal Tax Code.

IN WITNESS WHEREOF, we have hereunto set our hands this 29 day of ~~May~~ <sup>APRIL</sup>, 1997.

  
Robert W. Shank, Director

  
Donald H. Shank, Director, Registered Agent

  
Robert A. Gram, Director

  
Gayle A. Shank, Director

STATE OF COLORADO )  
 ) ss:  
COUNTY OF LA PLATA )

I, the undersigned, a Notary Public, hereby certify that on the <sup>APRIL</sup> 29 day of May, 1997 personally appeared before me DONALD H. SHANK, a Member of the Board of Directors and Registered Agent, GAYLE A. SHANK, a Member of the Board of Directors, and ROBERT A. GRAM, a Member of the Board of Directors, who being duly sworn, declared that they are the persons who signed the foregoing document and that the statements therein contained are true.

WITNESS my hand and official seal this <sup>APRIL</sup> 29 day of May, 1997.

*M. Catherine Spencer*  
Notary Public

My commission expires: 3-5-2001

STATE OF TENNESSEE )  
 ) ss:  
COUNTY OF )

I, the undersigned, a Notary Public, hereby certify that on the \_\_\_ day of May, 1997 personally appeared before me ROBERT W. SHANK, a Member of the Board of Directors who being duly sworn, declared that he is the person who signed the foregoing document and that the statements therein contained are true.

WITNESS my hand and official seal this 1 day of May, 1997.

*Jessie J. Hobbs*  
Notary Public

My commission expires: 9/26/98

FEE \$70.00  
 ON OR BEFORE 12 31 99  
 DATE DUE  
 REPORT YEAR 1999

STATE OF COLORADO  
 BIENNIAL REPORT OF  
 A CORPORATION OR LIMITED LIABILITY COMPANY

007

READ INSTRUCTIONS ON REVERSE SIDE BEFORE COMPLETING  
 SUBMIT SIGNED FORM WITH FILING FEE

THIS FORM MUST BE TYPED

MAILING DATE Dec. 27, 1999

INFORMATION BELOW IS ON FILE IN THIS OFFICE. DO NOT CHANGE PRE-PRINTED INFORMATION

CORPORATE NAME REGISTERED AGENT, REGISTERED OFFICE CITY, STATE & ZIP 19971086444 INC SUSPEND DATE 11/01/1999 STATE/COUNTRY OF INC CO SHANK DONALD H DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION 102 1/2 W 18TH ST DURANGO CO 81301	<b>FOR OFFICE USE ONLY</b> 1999124775 H \$ 70.00 SECRETARY OF STATE 12-31-1999 13:43:20
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Return completed reports to:  
 Department of State  
 Corporate Report Section  
 1580 Broadway, Suite 200  
 Denver, CO 80202

FIRST REPORT OR CORRECTIONS IN THIS COLUMN

TYPE NEW AGENT NAME
SIGNATURE OF NEW REGISTERED AGENT
MUST HAVE A STREET ADDRESS 1474 Main Ave. #121
CITY Durango STATE CO ZIP 81301

OFFICERS NAME AND ADDRESS	TITLE	
Donald H. Shank 13 Willow Place Durango, CO 81301	President	
Richard L. Millard 601 Animas View Dr. #107 Durango, CO 81301	Treasurer	
Robert W. Shank 1861 Harriet Dr. Clarksville, TN 37040	V.P./Secretary	

DIRECTORS OR LIMITED LIABILITY COMPANY MANAGERS	(If you have less than 3 shareholders, you may list less than 3 directors)
GRAM ROBERT A 300 W 32ND ST DURANGO CO 81301	12023 County Rd. 310 Ignacio, CO 81137
SHANK ROBERT W 1861 HARRIET DR CLARKSVILLE TN 37040	
SHANK DONALD H 102 1/2 W 18TH ST DURANGO CO 81301	13 Willow Place Durango, CO 81301

Address of Principal Place of Business:  
 Street 1474 Main Avenue, Suite 121  
 City Durango, CO 81301 State CO Zip 81301

SIGNATURE

Under penalties of perjury and as an authorized officer, I declare that this biennial report and, if applicable, the statement of change of registered office and agent, has been examined by me and is, to the best of my knowledge and belief, true, correct, and complete.

BY Donald H. Shank  
Authorized Agent  
 TITLE President DATE Dec. 27 19 99

NOTE: DO NOT USE THIS BOX IF THIS IS YOUR FIRST REPORT!!! SEE INSTRUCTIONS ON REVERSE. IF THERE ARE NO CHANGES SINCE YOUR LAST REPORT, MARK THIS BOX, SIGN ABOVE AND RETURN WITH THE FEE AND BY THE DATE DUE INDICATED ABOVE (UPPER LEFT HAND CORNER). IF YOU ARE FILING AFTER THE DATE DUE ABOVE, CONTACT THIS OFFICE FOR THE PROPER FEE. (303) 894-2251

SEE INSTRUCTIONS ON BACK

53798329-3

**DENVER & RIO GRANDE RAILWAY  
HISTORICAL FOUNDATION**

A COLORADO NON-PROFIT / TAX EXEMPT CORPORATION

The following is a complete list of the Directors and Officers of the D&RG Rwy Historical Foundation:

**DIRECTORS**

Donald H. Shank, Chairman  
13 Willow Place  
Durango, CO 81301

Martin P. Pirnat, M.D., Director  
1800 East 3rd Ave. Ste. 109  
Durango, CO 81301

Robert A. Gram, Director  
12023 County Rd. 310  
Ignacio, CO 81137

Robert W. Shank, Director  
1861 Harriet Dr.  
Clarksville, TN 37040

Richard L. Millard, Director  
601 Animas View Dr., #107  
Durango, CO 81301

William H. Colley, Director  
P.O. Box 3951  
Durango, CO 81302

**OFFICERS**

Donald H. Shank, President  
13 Willow Place  
Durango, CO 81301

Robert A. Gram, V.P.  
12023 County Rd. 310  
Ignacio, CO 81137

Robert W. Shank, Exec. V.P./Secretary  
1861 Harriet Dr.  
Clarksville, TN 37040

Richard L. Millard, Treasurer  
601 Animas View Dr., #107  
Durango, CO 81301

19991247973 M  
\$ 70.00  
SECRETARY OF STATE  
12-31-1999 13:43:20

Foundation Office: 1474 Main Ave, Suite 121, Durango CO 81301  
Tel: 970-259-9498 Fax: 259-0095



19971086444  
**APPLICATION FOR REINSTATEMENT**  
**NONPROFIT CORPORATION**

Return to: Secretary of State  
 1580 Broadway, Ste 200  
 Denver, CO 80202  
 (303) 894-2251  
 Fax (303) 894-2242

FILE: 1 typed original + 1 copy  
 (Please include a self-addressed envelope)

19991247973 M  
 \$ 70.00  
 SECRETARY OF STATE  
 12-31-1999 13:43:20

FOR OFFICE USE ONLY

Pursuant to CRS § 7-134-203, the undersigned hereby executes the following:

1. The corporate name at the time of dissolution was: DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION
2. The new name under which the corporation is to be reinstated (this provision applies only if the original corporate name at the time of dissolution is no longer available)  
Same as above
3. The street address of the registered office: 1474 Main Ave., Suite 121, Durango, CO 81301  
 Name of Registered Agent: Donald H. Shank  
 Signature of Registered Agent: *Donald H. Shank*
4. The corporation was administratively dissolved on (exact date): N/A
5. Please check (✓) the appropriate box  
 The grounds for dissolution did not exist  
 The grounds for dissolution have been eliminated

**APPLICATION FOR REINSTATEMENT MUST BE ACCOMPANIED BY A COMPLETED CORPORATE REPORT AND REQUISITE FEES.**

Signature *Donald H. Shank*  
 Title Registered Agent / President

4

Form 1023

(Rev. April 1997)

Department of the Treasury  
Internal Revenue Service

Application for Recognition of Exemption  
Under Section 501(c)(3) of the Internal Revenue Code

OMB No. 1545-0056

If exempt status is approved, this application will be open for public inspection.

Read the instructions for each Part carefully.  
A User Fee must be attached to this application.

If the required information and appropriate documents are not submitted along with Form 8718 (with payment of the appropriate user fee), the application may be returned to you.  
Complete the Procedural Checklist on page 7 of the instructions.

Part I Identification of Applicant

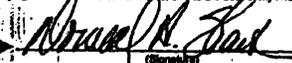
1a Full name of organization (as shown in organizing document) Denver & Rio Grande Railway Historical Foundation		2 Employer identification number (EIN) (If none, see page 2 of the instructions.) 84-1433680	
1b c/o Name (if applicable) Donald H. Shank		3 Name and telephone number of person to be contacted if additional information is needed Donald Shank 970.259.9498	
1c Address (number and street) 1474 Main Avenue		Room/Suite 121	
1d City or town, state, and ZIP code Durango CO 81301		4 Month the annual accounting period ends December	
5 Date incorporated or formed May 30, 1997	6 Activity codes (See page 3 of the instructions.) 060, 062, 119	7 Check here if applying under section: a <input type="checkbox"/> 501(e) b <input type="checkbox"/> 501(f) c <input checked="" type="checkbox"/> 501(k)	
8 Did the organization previously apply for recognition of exemption under this Code section or under any other section of the Code? If "Yes," attach an explanation. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
9 Is the organization required to file Form 990 (or Form 990-EZ)? If "No," attach an explanation (see page 3 of the Specific Instructions). <input checked="" type="checkbox"/> N/A <input type="checkbox"/> Yes <input type="checkbox"/> No			
10 Has the organization filed Federal income tax returns or exempt organization information returns? If "Yes," state the form numbers, years filed, and Internal Revenue office where filed. <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			

11 Check the box for the type of organization. ATTACH A CONFORMED COPY OF THE CORRESPONDING ORGANIZING DOCUMENTS TO THE APPLICATION BEFORE MAILING. (See Specific Instructions for Part I, Line 11, on page 3.) Get Pub. 667, Tax-Exempt Status for Your Organization, for examples of organizational documents.

- a  Corporation—Attach a copy of the Articles of Incorporation (including amendments and restatements) showing approval by the appropriate state official; also include a copy of the bylaws.
- b  Trust— Attach a copy of the Trust Indenture or Agreement, including all appropriate signatures and dates.
- c  Association—Attach a copy of the Articles of Association, Constitution, or other creating document, with a declaration (see instructions) or other evidence the organization was formed by adoption of the document by more than one person; also include a copy of the bylaws.

If the organization is a corporation or an unincorporated association that has not yet adopted bylaws, check here

I declare under the penalties of perjury that I am authorized to sign this application on behalf of the above organization and that I have examined this application, including the accompanying schedules and attachments, and to the best of my knowledge it is true, correct, and complete.

Please  President and Incorporator Mar. 20, 1998  
(Signature) (Title or authority of signer) (Date)

For Paperwork Reduction Act Notice, see page 1 of the instructions.

**Part II** Activities and Operational Information

- 1 Provide a detailed narrative description of all the activities of the organization—past, present, and planned. Do not merely refer to or repeat the language in the organizational document. List each activity separately in the order of importance based on the relative time and other resources devoted to the activity. Indicate the percentage of time for each activity. Each description should include, as a minimum, the following: (a) a detailed description of the activity including its purpose and how each activity furthers your exempt purpose; (b) when the activity was or will be initiated; and (c) where and by whom the activity will be conducted.

The Denver & Rio Grande Railway Historical Foundation was formed for the following purposes: 1. The main function of the Foundation is the acquisition, restoration and preservation of historic railroad equipment, artifacts and memorabilia native to Colorado, New Mexico and Utah. 2. Our ultimate goal is to acquire either through purchase or donation, a parcel of land suitable to construct a restoration facility and museum/display facility for the restored rail artifacts/equipment. The initial task is to locate old retired railcar relics that could become available. They are typically utilized as farm buildings, storage buildings, or just as an interesting "out" building on acreage scattered throughout the three states mentioned in para. 1. An excellent example of our process is as follows: We (the foundation) contacted a property owner last year after discovering an old Caboose on thier land. We wrote the owner asking him of his intentions for the Caboose and asked for it's donation to our Foundation, explaining that we would restore it and display it at a yet-to-be built Museum here in Durango. They agreed to donate it to us and help in the costs to move it and operate the Foundation in the form of a \$2,500.00 donation. The car will receive a total rebuild via volunteer labor and hired/compensated professionals and then will be utilized to elevate public awareness to the Foundation and our goal of the Durango Railroad Museum. At this time, we have the commitment for three more historic railcars to be donated to the Foundation. We are planning our first public meeting this April 14th for the main purpose of signing Charter Members to the Foundation and generating interest in our Caboose restoration project. It is our goal to construct the restoration facility in such a manner to allow the viewing of the restoration process from a safe vantage point. This will be available to the schools within our region and civic groups as well. This will become an education benefit to the community as children will be able to see how things were made and how they were used. As donations permit and as the membership grows, the officers and directors of the Foundation will dedicate more and more time to the goal of completing each facet of our plan to create the Durango Railroad Museum Complex. We are all comitted to this preservation of Durango's rich rail history that dates back to 1881.

- 2 What are or will be the organization's sources of financial support? List in order of size.

- |   |   |
|---|---|
| 1. Foundation general membership        | 6. National Historical Society sponsors |
| 2. Charitable donations from the public | 7. Governmental Grants                  |
| 3. Donations from local businesses      |   |
| 4. Corporate sponsorship                |   |
| 5. State Historical Society sponsorship |   |

- 3 Describe the organization's fundraising program, both actual and planned, and explain to what extent it has been put into effect. Include details of fundraising activities such as selective mailings, formation of fundraising committees, use of volunteers or professional fundraisers, etc. Attach representative copies of solicitations for financial support.

To date we have not initiated our plan. We are having our first public meeting this April 14th, (see attached invitation) to kick off our membership drive and fund raising plan. We will implement a graduated level of membership (see attached membership form)

**Part II** Activities and Operational Information (Continued)

**4** Give the following information about the organization's governing body:

a Names, addresses, and titles of officers, directors, trustees, etc.	b Annual compensation
Donald H. Shank, President, General Manager, Chairman of the Board 1474 Main Ave. Suite 121, Durango, CO 81301 Gayle A. Shank, Treasurer, Office Mgr, Director 1474 Main Ave. Suite 121, Durango, CO 81301 Robert W. Shank, Vice Pres, Secretary, Director 1861 Harriett Drive, Clarksville, TN 37040 Robert A. Grew, Director 204 St. Andrews Way, Durango, CO 81301	D.H. Shank - \$20.00/hr. until budget provides for salary.  Remaining 3 directors are not compensated at this time, but will be as budget permits.

**c** Do any of the above persons serve as members of the governing body by reason of being public officials or being appointed by public officials?  Yes  No  
 If "Yes," name those persons and explain the basis of their selection or appointment.

**d** Are any members of the organization's governing body "disqualified persons" with respect to the organization (other than by reason of being a member of the governing body) or do any of the members have either a business or family relationship with "disqualified persons"? (See Specific Instructions for Part II, Line 4d, on page 3.)  Yes  No  
 If "Yes," explain.

**e** Does the organization control or is it controlled by any other organization?  Yes  No  
 Is the organization the outgrowth of (or successor to) another organization, or does it have a special relationship with another organization by reason of interlocking directorates or other factors?  Yes  No  
 If either of these questions is answered "Yes," explain.

**f** Does or will the organization directly or indirectly engage in any of the following transactions with any political organization or other exempt organization (other than a 501(c)(3) organization): (a) grants; (b) purchases or sales of assets; (c) rental of facilities or equipment; (d) loans or loan guarantees; (e) reimbursement arrangements; (f) performance of services, membership, or fundraising solicitations; or (g) sharing of facilities, equipment, mailing lists or other assets, or paid employees?  Yes  No  
 If "Yes," explain fully and identify the other organizations involved.

**g** Is the organization financially accountable to any other organization?  Yes  No  
 If "Yes," explain and identify the other organization. Include details concerning accountability or attach copies of reports if any have been submitted.

**Part II** Activities and Operational Information (Continued)

8 What assets does the organization have that are used in the performance of its exempt function? (Do not include property producing investment income.) If any assets are not fully operational, explain their status, what additional steps remain to be completed, and when such final steps will be taken. If "None," indicate "N/A." Our Foundation currently has in its possession one 1880 Caboose in serious need of restoration. We have \$468.66 in our bank account prior to including the \$465.00 with this application.

9 Will the organization be the beneficiary of tax-exempt bond financing within the next 2 years?  Yes  No

10a Will any of the organization's facilities or operations be managed by another organization or individual under a contractual agreement?  Yes  No

b Is the organization a party to any leases?  Yes  No  
If either of these questions is answered "Yes," attach a copy of the contracts and explain the relationship between the applicant and the other parties.

11 Is the organization a membership organization?  Yes  No  
If "Yes," complete the following:

a Describe the organization's membership requirements and attach a schedule of membership fees and dues. A genuine sense of pride in Durango's rich rail history and a strong desire to help in the restoration process both physically and financially.

b Describe the organization's present and proposed efforts to attract members and attach a copy of any descriptive literature or promotional material used for this purpose. Our first public meeting to this April 14th. This meeting will kick off our membership and sponsor drive.

c What benefits do (or will) the members receive in exchange for their payment of dues? The satisfaction of supporting the resurrection and preservation of historic rail equipment and memorabilia and the eventual building of the Durango Railroad Museum Complex.

12a If the organization provides benefits, services, or products, are the recipients required, or will they be required, to pay for them?  N/A  Yes  No  
If "Yes," explain how the charges are determined and attach a copy of the current fee schedule.

We are planning on selling T-shirts and hats depicting the Historical Foundation and each restoration project, ie; Project 0518 (our Caboose) Pricing is not determined at this time.

b Does or will the organization limit its benefits, services, or products to specific individuals or classes of individuals?  N/A  Yes  No  
If "Yes," explain how the recipients or beneficiaries are or will be selected.

13 Does or will the organization attempt to influence legislation?  Yes  No  
If "Yes," explain. Also, give an estimate of the percentage of the organization's time and funds that it devotes or plans to devote to this activity.

14 Does or will the organization intervene in any way in political campaigns, including the publication or distribution of statements?  Yes  No  
If "Yes," explain fully.

**Part III** Technical Requirements

1 Are you filing Form 1023 within 15 months from the end of the month in which your organization was created or formed?  Yes  No  
If you answer "Yes," do not answer questions on lines 2 through 7 below.

2 If one of the exceptions to the 15-month filing requirement shown below applies, check the appropriate box and proceed to question 5.

Exceptions—You are not required to file an exemption application within 15 months if the organization:

- a is a church, interchurch organization of local units of a church, a convention or association of churches, or an integrated auxiliary of a church. See Specific Instructions, Line 2a, on page 4;
- b is not a private foundation and normally has gross receipts of not more than \$5,000 in each tax year; or
- c is a subordinate organization covered by a group exemption letter, but only if the parent or supervisory organization timely submitted a notice covering the subordinate.

3 If the organization does not meet any of the exceptions on line 2 above, are you filing Form 1023 within 27 months from the end of the month in which the organization was created or formed?  Yes  No

If "Yes," your organization qualifies under section 4.01 of Rev. Proc. 92-85, 1992-2 C.B. 490, for an automatic 12-month extension of the 15-month filing requirement. Do not answer questions 4 through 7.

If "No," answer question 4.

4 If you answer "No" to question 3, has the organization been contacted by the IRS regarding its failure to file Form 1023 within 27 months from the end of the month in which the organization was created or formed?  Yes  No

If "No," your organization is requesting an extension of time to apply under the "reasonable action and good faith" requirements of section 5.01 of Rev. Proc. 92-85. Do not answer questions 5 through 7.

If "Yes," answer question 5.

5 If you answer "Yes" to question 4, does the organization wish to request relief from the 15-month filing requirement?  Yes  No

If "Yes," give the reasons for not filing this application prior to being contacted by the IRS. See Specific Instructions, Line 5, on page 4 before completing this item. Do not answer questions 6 and 7.

If "No," answer question 6.

6 If you answer "No" to question 5, your organization's qualification as a section 501(c)(3) organization can be recognized only from the date this application is filed with your key District Director. Therefore, do you want us to consider the application as a request for recognition of exemption as a section 501(c)(3) organization from the date the application is received and not retroactively to the date the organization was created or formed?  Yes  No

If you answer "Yes" to question 6 above and wish to request recognition of section 501(c)(4) status for the period beginning with the date the organization was formed and ending with the date the Form 1023 application was received (the effective date of the organization's section 501(c)(3) status), check here  and attach a completed page 1 of Form 1024 to this application.

**PART III** Technical Requirements (Continued)

8 Is the organization a private foundation?  
 Yes (Answer question 9.)  
 No (Answer question 10 and proceed as instructed.)

9 If you answer "Yes" to question 8, does the organization claim to be a private operating foundation?  
 Yes (Complete Schedule E.)  
 No

After answering question 9 on this line, go to line 15 on page 7.

10 If you answer "No" to question 8, indicate the public charity classification the organization is requesting by checking the box below that most appropriately applies:

**THE ORGANIZATION IS NOT A PRIVATE FOUNDATION BECAUSE IT QUALIFIES:**

- a  As a church or a convention or association of churches (CHURCHES MUST COMPLETE SCHEDULE A.) Sections 509(a)(1) and 170(b)(1)(A)(i)
- b  As a school (MUST COMPLETE SCHEDULE B.) Sections 509(a)(1) and 170(b)(1)(A)(ii)
- c  As a hospital or a cooperative hospital service organization, or a medical research organization operated in conjunction with a hospital (MUST COMPLETE SCHEDULE C.) Sections 509(a)(1) and 170(b)(1)(A)(iii)
- d  As a governmental unit described in section 170(c)(1). Sections 509(a)(1) and 170(b)(1)(A)(v)
- e  As being operated solely for the benefit of, or in connection with, one or more of the organizations described in a through d, g, h, or i (MUST COMPLETE SCHEDULE D.) Section 509(a)(3)
- f  As being organized and operated exclusively for testing for public safety. Section 509(a)(4)
- g  As being operated for the benefit of a college or university that is owned or operated by a governmental unit. Sections 509(a)(1) and 170(b)(1)(A)(iv)
- h  As receiving a substantial part of its support in the form of contributions from publicly supported organizations, from a governmental unit, or from the general public. Sections 509(a)(1) and 170(b)(1)(A)(vi)
- i  As normally receiving not more than one-third of its support from gross investment income and more than one-third of its support from contributions, membership fees, and gross receipts from activities related to its exempt functions (subject to certain exceptions). Section 509(a)(2)
- j  The organization is a publicly supported organization but is not sure whether it meets the public support test of block h or block i. The organization would like the IRS to decide the proper classification. Sections 509(a)(1) and 170(b)(1)(A)(vii) or Section 509(a)(2)

If you checked one of the boxes a through f in question 10, go to question 15. If you checked box g in question 10, go to questions 12 and 13. If you checked box h, i, or j, in question 10, go to question 11.

Part III Technical Requirements (Continued)

- 11 If you checked box h, l, or j in question 10, has the organization completed a tax year of at least 6 months?
- Yes—indicate whether you are requesting:
    - A definitive ruling (Answer questions 12 through 15.)
    - An advance ruling (Answer questions 12 and 15 and attach two Forms 872-C completed and signed.)
  - No—You must request an advance ruling by completing and signing two Forms 872-C and attaching them to the application.

12 If the organization received any unusual grants during any of the tax years shown in Part IV-A, attach a list for each year showing the name of the contributor; the date and the amount of the grant; and a brief description of the nature of the grant.

We received the donation of one 1880 Caboose and a cash donation of \$2,500.00

- 13 If you are requesting a definitive ruling under section 170(b)(1)(A)(iv) or (vi), check here  and:
- a Enter 2% of line 8, column (e), Total, of Part IV-A.
  - b Attach a list showing the name and amount contributed by each person (other than a governmental unit or "publicly supported" organization) whose total gifts, grants, contributions, etc., were more than the amount entered on line 13a above.

- 14 If you are requesting a definitive ruling under section 509(a)(2), check here  and:
- a For each of the years included on lines 1, 2, and 9 of Part IV-A, attach a list showing the name of and amount received from each "disqualified person." (For a definition of "disqualified person," see Specific Instructions, Part II, Line 4d, on page 3.)
  - b For each of the years included on line 9 of Part IV-A, attach a list showing the name of and amount received from each payer (other than a "disqualified person") whose payments to the organization were more than \$5,000. For this purpose, "payer" includes, but is not limited to, any organization described in sections 170(b)(1)(A)(i) through (vi) and any governmental agency or bureau.

15 Indicate if your organization is one of the following. If so, complete the required schedule. (Submit only those schedules that apply to your organization. Do not submit blank schedules.)

	Yes	No	If "Yes," complete Schedule:
Is the organization a church?		X	A
Is the organization, or any part of it, a school?		X	B
Is the organization, or any part of it, a hospital or medical research organization?		X	C
Is the organization a section 509(a)(3) supporting organization?		X	D
Is the organization a private operating foundation?		X	E
Is the organization, or any part of it, a home for the aged or handicapped?		X	F
Is the organization, or any part of it, a child care organization?		X	G
Does the organization provide or administer any scholarship benefits, student aid, etc.?		X	H
Has the organization taken over, or will it take over, the facilities of a "for profit" institution?		X	I

**Part IV** Financial Data

Complete the financial statements for the current year and for each of the 3 years immediately before it. If in existence less than 4 years, complete the statements for each year in existence. If in existence less than 1 year, also provide proposed budgets for the 2 years following the current year.

**A. Statement of Revenue and Expenses**

	Current tax year	3 prior tax years or proposed budget for 2 years			(e) TOTAL
	(a) From 1-28 to present	(b) 19 27	(c) 19 28* *proposed	(d) 19 29* *proposed	
1 Gifts, grants, and contributions received (not including unusual grants—see pages 5 and 6 of the instructions)	0	0	0	0	
2 Membership fees received	0	0	\$5,000	\$10,000	
3 Gross investment income (see instructions for definition)	0	0	0	0	
4 Net income from organization's unrelated business activities not included on line 3	0	0	0	0	
5 Tax revenues levied for and either paid to or spent on behalf of the organization	0	0	0	0	
6 Value of services or facilities furnished by a governmental unit to the organization without charge (not including the value of services or facilities generally furnished the public without charge)	0	0	0	0	
7 Other income (not including gain or loss from sale of capital assets) (attach schedule)	\$1.30	\$8.06	\$250.00	\$700.00	
8 Total (add lines 1 through 7)	\$1.30	\$8.06	\$2,250.00	\$10,700.00	
9 Gross receipts from admissions, sales of merchandise or services, or furnishing of facilities in any activity that is not an unrelated business within the meaning of Section 513. Include related cost of sales on line 22	0	0	\$750.00	\$2,500.00	
10 Total (add lines 8 and 9)	\$1.30	\$8.06	\$6,000.00	\$13,200.00	
11 Gain or loss from sale of capital assets (attach schedule)	0	0	0	0	
12 Unusual grants	0	\$2,500.00	\$20,000.00	\$50,000.00	
13 Total revenues (add lines 10 through 12)	\$1.30	\$2,508.06	\$26,000.00	\$63,200.00	
14 Advertising expenses	0	0	\$1,500.00	\$4,000.00	
15 Contributions, gifts, grants and similar amounts paid (attach schedule)	0	0	\$100.00	\$200.00	
16 Expenses paid to or for benefit of members (attach schedule)	0	0	0	0	
17 Compensation of officers, directors, and trustees (attach schedule)	0	\$1,200.00	\$5,000.00	\$15,000.00	
18 Other salaries and wages	0	0	\$6,500.00	\$17,500.00	
19 Interest	0	0	0	0	
20 Occupancy (rent, utilities, etc.)	0	\$677.00	\$2,400.00	\$2,400.00	
21 Depreciation and depletion	0	0	0	0	
22 Other (attach schedule)	0	\$163.70	\$10,500	\$20,800	
23 Total expenses (add lines 14 through 22)	0	\$2,040.70	\$26,000.00	\$59,900.00	
24 Excess of revenue over expenses (line 13 minus line 23)	\$1.30	\$467.36	0	\$3,300.00	

**Part IV** Financial Data (Continued)

**B. Balance Sheet (at the end of the period shown)**

Current tax year  
Date

Assets		
1	Cash	\$468.66
2	Accounts receivable, net	0
3	Inventories	0
4	Bonds and notes receivable (attach schedule)	0
5	Corporate stocks (attach schedule)	0
6	Mortgage loans (attach schedule)	0
7	Other investments (attach schedule)	0
8	Depreciable and depletable assets (attach schedule)	0
9	Land	0
10	Other assets (attach schedule) <i>Unrestored 1880 Caboose</i>	\$1,900.00
11	<b>Total assets (add lines 1 through 10)</b>	<b>\$2,368.66</b>
Liabilities		
12	Accounts payable <i>Deferred compensation to President/Director</i>	\$2,350.00
13	Contributions, gifts, grants, etc., payable	0
14	Bonds and notes payable (attach schedule)	0
15	Other liabilities (attach schedule)	0
16	<b>Total liabilities (add lines 12 through 15)</b>	<b>\$2,350.00</b>
Fund Balances or Net Assets		
17	<b>Total fund balances or net assets</b>	<b>\$18.66</b>
18	<b>Total liabilities and fund balances or net assets (add line 16 and line 17)</b>	<b>\$2,368.66</b>

If there has been any substantial change in any aspect of the organization's financial activities since the end of the period shown above, check the box and attach a detailed explanation

Form **8718**

(Rev. September 1997)  
Department of the Treasury  
Internal Revenue Service

**User Fee for Exempt Organization  
Determination Letter Request**

▶ Attach this form to determination letter application.  
(Form 8718 is NOT a determination letter application.)

For IRS Use Only

Control number \_\_\_\_\_

Amount paid \_\_\_\_\_

User fee screener \_\_\_\_\_

1 Name of organization  
**Denver & Rio Grande Historical Foundation**

2 Employer Identification Number  
**84-1433680**

Caution: Do not attach Form 8718 to an application for a pension plan determination letter. Use Form 8717 instead.

3 Type of request

- Initial request for a determination letter for:
    - An exempt organization that has had annual gross receipts averaging not more than \$10,000 during the preceding 4 years, or
    - A new organization that anticipates gross receipts averaging not more than \$10,000 during its first 4 years . . . ▶ **\$150**
- Note: If you checked box 3a, you must complete the Certification below.

**Certification**

I certify that the annual gross receipts of \_\_\_\_\_  
name of organization  
have averaged (or are expected to average) not more than \$10,000 during the preceding 4 (or the first 4) years of operation.

Signature ▶ \_\_\_\_\_ Title ▶ \_\_\_\_\_

- Initial request for a determination letter for:
  - An exempt organization that has had annual gross receipts averaging more than \$10,000 during the preceding 4 years, or
  - A new organization that anticipates gross receipts averaging more than \$10,000 during its first 4 years . . . ▶ **\$485**
- Group exemption letters . . . . . ▶ **\$500**

**Instructions**

The law requires payment of a user fee with each application for a determination letter. The user fees are listed on line 3. For more information, see Rev. Rul. 97-8, 1997-1 I.R.B. 187.

Check the box on line 3 for the type of application you are submitting. If you check box 3a, you must complete and sign the certification statement that appears on line 4.

Attach to Form 8718 a check or money order payable to the Internal Revenue Service for the full amount of the user fee. If you do not include the full amount, your application will be returned. Attach Form 8718 to your determination letter application.

Send the determination letter application and Form 8718 to:

Internal Revenue Service  
P.O. Box 192  
Covington, KY 41012-0192

If you are using express mail or a delivery service, send the application and Form 8718 to:

Internal Revenue Service  
201 West Rivercenter Blvd.  
Attn: Extracting Stop 312  
Covington, KY 41011

**DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION**  
1005  
102 W. 16TH ST.  
DENVER, CO 80202

DATE **MAR 20 1998**

TO THE ORDER OF **INTERNAL REVENUE SERVICE** \$ **485.00**

**FOUR HUNDRED EIGHTY-FIVE & 00/100** DOLLARS

**USER FEE FOR EXEMPT ORGANIZATION**

**Donald O. Cook**  
**George Strunk**

⑆001005⑆ ⑆102000076⑆ ⑆6498008785⑆

Form **872-C**

**Consent Fixing Period of Limitation Upon Assessment of Tax Under Section 4940 of the Internal Revenue Code**

OMB No. 1545-0058

(Rev. April 1998)

U.S. Department of the Treasury  
Internal Revenue Service

(See instructions on reverse side.)

To be used with Form 1023. Submit in duplicate.

Under section 6501(c)(4) of the Internal Revenue Code, and as part of a request filed with Form 1023 that the organization named below be treated as a publicly supported organization under section 170(b)(1)(A)(vi) or section 508(a)(2) during an advance ruling period.

Denver's Rio Grande Railway Historical Foundation

(Exact legal name of organization as shown in organizing document)

1474 Main Avenue, Suite 121, Durango, CO 81301

(Number, street, city or town, state, and ZIP code)

and the

District Director of Internal Revenue, or Assistant Commissioner (Employee Plans and Exempt Organizations)

Consent and agree that the period for assessing tax (imposed under section 4940 of the Code) for any of the 5 tax years in the advance ruling period will extend 8 years, 4 months, and 15 days beyond the end of the first tax year.

However, if a notice of deficiency in tax for any of these years is sent to the organization before the period expires, the time for making an assessment will be further extended by the number of days the assessment is prohibited, plus 60 days.

Ending date of first tax year December 31, 1997  
(Month, day, and year)

Name of organization (as shown in organizing document)

Denver's Rio Grande Railway Historical Foundation

Date

March 20, 1998

Officer or trustee having authority to sign Donald H. Shank, President/Chairman

Signature *Donald H. Shank*

Title President

or IRS use only

Director or Assistant Commissioner (Employee Plans and Exempt Organizations)

Date

27

5

Form **990**

### Return of Organization Exempt From Income Tax

Under section 501(c) of the Internal Revenue Code (except black lung benefit trust or private foundation) or section 4947(a)(1) nonexempt charitable trust

OMB No. 1545-0047

**1999**

Department of the Treasury  
Internal Revenue Service

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

This Form is  
Open to Public  
Inspection

A For the 1999 calendar year, OR tax year period beginning \_\_\_\_\_, 1999, and ending \_\_\_\_\_

<b>B</b> Check if: <input type="checkbox"/> Change of address <input type="checkbox"/> Initial return <input type="checkbox"/> Final return <input type="checkbox"/> Amended return (required also for state reporting)	<b>C</b> Name of organization DENVER & RIOGRANDE RAILWAY HISTORICAL FOUNDATION	<b>D</b> Employer identification number 84-1433080
	Please use IRS label or print or type. See Specific Instructions.	<b>E</b> Telephone number (970) 259-9498
	Number and street (or P.O. box if mail is not delivered to street address) Room/suite 1474 MAIN AVE SUITE	<b>F</b> Check <input type="checkbox"/> if exemption application is pending
	City or town, state or country, and ZIP+4 DURANGO, COLORADO 81301	

G Type of organization—  Exempt under section 501(c)(3) (insert number) OR  section 4947(a)(1) nonexempt charitable trust  
Note: Section 501(c)(3) exempt organizations and 4947(a)(1) nonexempt charitable trusts MUST attach a completed Schedule A (Form 990).

H(a) Is this a group return filed for affiliates?  Yes  No  
 (b) If "Yes," enter the number of affiliates for which this return is filed: \_\_\_\_\_  
 (c) Is this a separate return filed by an organization covered by a group ruling?  Yes  No

I If either box in H is checked "Yes," enter four-digit group exemption number (GEN) \_\_\_\_\_  
 J Accounting method:  Cash  Accrual  
 Other (specify) \_\_\_\_\_

K Check here  if the organization's gross receipts are normally not more than \$25,000. The organization need not file a return with the IRS; but if it received a Form 990 Package in the mail, it should file a return without financial data. Some states require a complete return.

Note: Form 990-EZ may be used by organizations with gross receipts less than \$100,000 and total assets less than \$250,000 at end of year.

#### Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 15.)

FILED DEC 8 2000

1	Contributions, gifts, grants, and similar amounts received:		
	a	Direct public support	1a 250,000
	b	Indirect public support	1b 202,464
	c	Government contributions (grants)	1c
	d	Total (add lines 1a through 1c) (attach schedule of contributors). (cash \$ _____ noncash \$ _____)	1d 452,464
2	Program service revenue including government fees and contracts (from Part VII, line 93)		2
3	Membership dues and assessments		3
4	Interest on savings and temporary cash investments		4 79
5	Dividends and interest from securities		5
6a	Gross rents		6a
	b	Less: rental expenses	6b
	c	Net rental income or (loss) (subtract line 6b from line 6a)	6c
7	Other investment income (describe _____)		7
8a	Gross amount from sales of assets other than inventory		8a
	b	Less: cost or other basis and sales expenses	8b
	c	Gain or (loss) (attach schedule)	8c
	d	Net gain or (loss) (combine line 8c, column (A) and (B))	8d
9	Special events and activities (attach schedule)		
9a	Gross revenue (not including contributions reported on line 1a)		9a
	b	Less: direct expenses other than fundraising expenses	9b
	c	Net income or (loss) from special events (subtract line 9b from line 9a)	9c
10a	Gross sales of inventory, less returns and allowances		10a
	b	Less: cost of goods sold	10b
	c	Gross profit or (loss) from sales of inventory (attach schedule) (subtract line 10b from line 10a)	10c
11	Other revenue (from Part VII, line 103)		11
12	Total revenue (add lines 1d, 2, 3, 4, 5, 6c, 7, 8d, 9c, 10c, and 11)		12 452,543
13	Program services (from line 44, column (B))		13 10,366
	Management and general (from line 44, column (C))		14 17,295
	Fundraising (from line 44, column (D))		15 0-
	Payments to affiliates (attach schedule)		16 0-
	Total expenses (add lines 16 and 44, column (A))		17 27,661
18	Excess or (deficit) for the year (subtract line 17 from line 12)		18 274,882
19	Net assets or fund balances at beginning of year (from line 73, column (A))		19 25,450
20	Other changes in net assets or fund balances (attach explanation)		20 141,117
21	Net assets or fund balances at end of year (combine lines 18, 19, and 20)		21 441,449

8

**Statement of Functional Expenses**

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See Specific Instructions on page 19.)

Do not include amounts reported on line 6b, 8b, 9b, 10b, or 16 of Part I.		(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22	Grants and allocations (attach schedule) (cash \$ _____ noncash \$ _____)				
23	Specific assistance to individuals (attach schedule)				
24	Benefits paid to or for members (attach schedule)				
25	Compensation of officers, directors, etc.				
26	Other salaries and wages				
27	Pension plan contributions				
28	Other employee benefits				
29	Payroll taxes				
30	Professional fundraising fees	200	200		
31	Accounting fees				
32	Legal fees	7,568		7,568	
33	Supplies	449		449	
34	Telephone	719		719	
35	Postage and shipping	441		441	
36	Occupancy	4,225		4,225	
37	Equipment rental and maintenance				
38	Printing and publications	1,407	27	1,380	
39	Travel	514	514		
40	Conferences, conventions, and meetings	225	225		
41	Interest				
42	Depreciation, depletion, etc. (attach schedule)	1,949		1,949	
43	Other expenses (itemize): a				
b	ASBESTOS ABATEMENT	9,100	9,100		
c	INSURANCE	564		564	
d	DAY LABOR	300	300		
e					
44	Total functional expenses (add lines 22 through 43). Organizations completing columns (B)-(D), carry these totals to lines 13-15.	27,661	10,366	17,295	

Reporting of Joint Costs. Did you report in column (B) (Program services) any joint costs from a combined educational campaign and fundraising solicitation?  Yes  No  
 If "Yes," enter (i) the aggregate amount of these joint costs \$ \_\_\_\_\_; (ii) the amount allocated to Program services \$ \_\_\_\_\_; (iii) the amount allocated to Management and general \$ \_\_\_\_\_; and (iv) the amount allocated to Fundraising \$ \_\_\_\_\_.

**Statement of Program Service Accomplishments (See Specific Instructions on page 22.)**

What is the organization's primary exempt purpose?   
 All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

	Program Service Expenses (Required for 501(c)(3) and (4) orgs., and 4947(a)(1) trusts, but optional for others.)
a	
	(Grants and allocations \$ _____)
b	
	(Grants and allocations \$ _____)
c	
	(Grants and allocations \$ _____)
d	
	(Grants and allocations \$ _____)
e	Other program services (attach schedule) (Grants and allocations \$ _____)
f	Total of Program Service Expenses (should equal line 44, column (B), Program services) <b>10,366</b>

**Balance Sheets (See Specific Instructions on page 22.)**

		(A) Beginning of year	(B) End of year
<i>Note: Where required, attached schedules and amounts within the description column should be for end-of-year amounts only.</i>			
Assets	45 Cash—non-interest-bearing . . . . .		45 1,108
	46 Savings and temporary cash investments . . . . .		46 513
	47a Accounts receivable . . . . .	47a	47c
	b Less: allowance for doubtful accounts . . . . .	47b	47c
	48a Pledges receivable . . . . .	48a 150,000	48c 150,000
	b Less: allowance for doubtful accounts . . . . .	48b	48c
	49 Grants receivable . . . . .		49
	50 Receivables from officers, directors, trustees, and key employees (attach schedule) . . . . .		50
	51a Other notes and loans receivable (attach schedule) . . . . .	51a	51c
	b Less: allowance for doubtful accounts . . . . .	51b	51c
	52 Inventories for sale or use . . . . .		52
	53 Prepaid expenses and deferred charges . . . . .		53
	54 Investments—securities (attach schedule) . . . . .		54
	55a Investments—land, buildings, and equipment: basis . . . . .	55a 34,000	55c 34,000
	b Less: accumulated depreciation (attach schedule) . . . . .	55b -0-	55c
	56 Investments—other (attach schedule) . . . . .	57a 631,416	57c 630,444
	b Less: accumulated depreciation (attach schedule) . . . . .	57b 972	57c
	58 Other assets (describe ► ) . . . . .		58
	59 Total assets (add lines 45 through 58) (must equal line 74) . . . . .		59 816,065
Liabilities	60 Accounts payable and accrued expenses . . . . .		60
	61 Grants payable . . . . .		61
	62 Deferred revenue . . . . .		62
	63 Loans from officers, directors, trustees, and key employees (attach schedule) . . . . .		63
	64a Tax-exempt bond liabilities (attach schedule) . . . . .		64a
	b Mortgages and other notes payable (attach schedule) . . . . .		64b 374,616
65 Other liabilities (describe ► ) . . . . .		65	
66 Total liabilities (add lines 60 through 65) . . . . .		66	
Net Assets or Fund Balances	Organizations that follow SFAS 117, check here <input type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74.		
	67 Unrestricted . . . . .		67
	68 Temporarily restricted . . . . .		68
	69 Permanently restricted . . . . .		69
	Organizations that do not follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 70 through 74.		
	70 Capital stock, trust principal, or current funds . . . . .		70
	71 Paid-in or capital surplus, or land, building, and equipment fund . . . . .		71
	72 Retained earnings, endowment, accumulated income, or other funds . . . . .		72
73 Total net assets or fund balances (add lines 67 through 69 OR lines 70 through 72; column (A) must equal line 19 and column (B) must equal line 21) . . . . .	25,450	73 441,449	
74 Total liabilities and net assets / fund balances (add lines 66 and 73) . . . . .		74 816,065	

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III, the organization's programs and accomplishments.

Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See Specific Instructions, page 24.)		Reconciliation of Expenses per Audited Financial Statements with Expenses per Return	
<p><b>a</b> Total revenue, gains, and other support per audited financial statements . . . ▶</p> <p><b>b</b> Amounts included on line a but not on line 12, Form 990:</p> <p>(1) Net unrealized gains on investments . . . \$ _____</p> <p>(2) Donated services and use of facilities \$ _____</p> <p>(3) Recoveries of prior year grants . . . \$ _____</p> <p>(4) Other (specify): _____ \$ _____</p> <p>Add amounts on lines (1) through (4) ▶</p> <p><b>c</b> Line a minus line b . . . . . ▶</p> <p><b>d</b> Amounts included on line 12, Form 990 but not on line a:</p> <p>(1) Investment expenses not included on line 6b, Form 990 . . . \$ _____</p> <p>(2) Other (specify): _____ \$ _____</p> <p>Add amounts on lines (1) and (2) ▶</p> <p><b>e</b> Total revenue per line 12, Form 990 (line c plus line d) . . . ▶</p>	<p>a</p> <p>b</p> <p>c</p> <p>d</p> <p>e</p>	<p><b>a</b> Total expenses and losses per audited financial statements . . . ▶</p> <p><b>b</b> Amounts included on line a but not on line 17, Form 990:</p> <p>(1) Donated services and use of facilities \$ _____</p> <p>(2) Prior year adjustments reported on line 20, Form 990 . . . . \$ _____</p> <p>(3) Losses reported on line 20, Form 990 . . . \$ _____</p> <p>(4) Other (specify): _____ \$ _____</p> <p>Add amounts on lines (1) through (4) ▶</p> <p><b>c</b> Line a minus line b . . . . . ▶</p> <p><b>d</b> Amounts included on line 17, Form 990 but not on line a:</p> <p>(1) Investment expenses not included on line 6b, Form 990 . . . \$ _____</p> <p>(2) Other (specify): _____ \$ _____</p> <p>Add amounts on lines (1) and (2) ▶</p> <p><b>e</b> Total expenses per line 17, Form 990 (line c plus line d) . . . ▶</p>	<p>a</p> <p>b</p> <p>c</p> <p>d</p> <p>e</p>
415,998		27,601	
415,998		27,601	

List of Officers, Directors, Trustees, and Key Employees (List each one even if not compensated; see Specific Instructions on page 24.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (if not paid, enter -0-)	(D) Contributors to employee benefit plan A (do not check compensation)	(E) Expense account and other allowances
DONALD H. SHANK 1474 MAIN AVE, STE 223 DURANGO, CO	FOUNDER/CHAIRMAN 60 HRS	-0-	-0-	-0-
ROBERT W. SHANK 1261 HARRIETT DR. CLARKSVILLE, TN	VICE-CHAIRMAN SECRETARY -0-	-0-	-0-	-0-
RICHARD L. MILLARD 60 LANIMAS VIEW DR DURANGO, CO	TREASURER 1 HR	-0-	-0-	-0-
MARTIN P. FIRNAT 1474 MAIN AVE, STE 223 DURANGO, CO	DIRECTOR -0-	-0-	-0-	-0-
WILLIAM M. COLLEY 1474 MAIN AVE, STE 223 DURANGO, CO	DIRECTOR -0-	-0-	-0-	-0-
ROBERT A. GRAM 1474 MAIN AVE, STE 223 DURANGO, CO	DIRECTOR -0-	-0-	-0-	-0-

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations, of which more than \$10,000 was provided by the related organizations?  Yes  No  
If "Yes," attach schedule—see Specific Instructions on page 25.

Other Information (See Specific Instructions on page 25.)		Yes	No
76	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity.		X
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes.		X
78a	Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?		X
b	If "Yes," has it filed a tax return on Form 990-T for this year?		X
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement.		X
80a	Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?		X
b	If "Yes," enter the name of the organization _____ and check whether it is <input type="checkbox"/> exempt OR <input type="checkbox"/> nonexempt.		
81a	Enter the amount of political expenditures, direct or indirect, as described in the Instructions for line 81. [81a]		
b	Did the organization file Form 1120-POL for this year?		X
82a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?	X	
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions for reporting in Part III.) [82b]		
83a	Did the organization comply with the public inspection requirements for returns and exemption applications?	X	
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	X	
84a	Did the organization solicit any contributions or gifts that were not tax deductible?		X
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?		
85	501(c)(4), (5), or (6) organizations. a Were substantially all dues nondeductible by members?		
b	Did the organization make only in-house lobbying expenditures of \$2,000 or less? If "Yes" was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year.		
c	Dues, assessments, and similar amounts from members [85c]		
d	Section 162(e) lobbying and political expenditures [85d]		
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices [85e]		
f	Taxable amount of lobbying and political expenditures (line 85d less 85e) [85f]		
g	Does the organization elect to pay the section 6033(e) tax on the amount in 85f? [85g]		
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount in 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year? [85h]		X
86	501(c)(7) orgs. Enter: a Initiation fees and capital contributions included on line 12 [86a]		
b	Gross receipts, included on line 12, for public use of club facilities. [86b]		
87	501(c)(12) orgs. Enter: a Gross income from members or shareholders. [87a]		
b	Gross income from other sources. (Do not net amounts due or paid to other sources against amounts due or received from them.) [87b]		
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX [88]		X
89a	501(c)(3) organizations. Enter: Amount of tax imposed on the organization during the year under: section 4911 [89a]; section 4912 [89b]; section 4955 [89c]		
b	501(c)(3) and 501(c)(4) orgs. Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction. [89b]		X
c	Enter: Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958. [89c]		-0-
d	Enter: Amount of tax on line 89c, above, reimbursed by the organization. [89d]		-0-
90a	List the states with which a copy of this return is filed [90a]		COLORADO
b	Number of employees employed in the pay period that includes March 12, 1999 (See inst.) [90b]		0
91	The books are in care of [91a] Telephone no. [91b]		DONALD SHANK 1 970 247-9496
	Located at [91c] ZIP + 4 [91d]		1474 MAIN AVE, SUITE DURANGO, CO 81301
92	Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041—Check here and enter the amount of tax-exempt interest received or accrued during the tax year [92]		



**SCHEDULE A  
(Form 990)**

**Organization Exempt Under Section 501(c)(3)**

(Except Private Foundation and Section 501(e), 501(f), 501(k), 501(n), or Section 4947(a)(1) Nonexempt Charitable Trust)

OMB No 1545-0047

**1999**

Department of the Treasury  
Internal Revenue Service

**Supplementary Information—(See separate instructions.)**

▶ **MUST be completed by the above organizations and attached to their Form 990 or 990-EZ**

Name of the organization

DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION

Employer identification number

84-1433680

**Compensation of the Five Highest Paid Employees Other Than Officers, Directors, and Trustees**  
(See page 1 of the instructions. List each one. If there are none, enter "None.")

(a) Name and address of each employee paid more than \$50,000	(b) Title and average hours per week devoted to position	(c) Compensation	(d) Contributions to employee benefit plans & deferred compensation	(e) Expense account and other allowances
Total number of other employees paid over \$50,000 ▶		-0-		

**Compensation of the Five Highest Paid Independent Contractors for Professional Services**  
(See page 1 of the instructions. List each one (whether individuals or firms). If there are none, enter "None.")

(a) Name and address of each independent contractor paid more than \$50,000	(b) Type of service	(c) Compensation
Total number of others receiving over \$50,000 for professional services ▶		-0-

Statements About Activities		Yes	No
1	During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes," enter the total expenses paid or incurred in connection with the lobbying activities ▶ \$ _____ Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes," must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities.		X
2	During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any of its trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary:		
a	Safe, exchange, or leasing of property?		X
b	Lending of money or other extension of credit?		X
c	Furnishing of goods, services, or facilities?		X
d	Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)?		X
e	Transfer of any part of its income or assets? If the answer to any question is "Yes," attach a detailed statement explaining the transactions.		X
3	Does the organization make grants for scholarships, fellowships, student loans, etc.?		X
4a	Do you have a section 403(b) annuity plan for your employees?		X
b	Attach a statement to explain how the organization determines that individuals or organizations receiving grants or loans from it in furtherance of its charitable programs qualify to receive payments. (See page 2 of the instructions.)		

**Reason for Non-Private Foundation Status** (See pages 2 through 4 of the instructions.)

The organization is not a private foundation because it is: (Please check only ONE applicable box.)

- 5  A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
- 6  A school. Section 170(b)(1)(A)(ii). (Also complete Part V, page 4.)
- 7  A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
- 8  A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(iv).
- 9  A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state ▶ \_\_\_\_\_
- 10  An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the Support Schedule in Part IV-A.)
- 11a  An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
- 11b  A community trust. Section 170(b)(1)(A)(vii). (Also complete the Support Schedule in Part IV-A.)
- 12  An organization that normally receives: (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions—subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Also complete the Support Schedule in Part IV-A.)
- 13  An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in: (1) lines 5 through 12 above; or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See page 4 of the instructions.)

(a) Name(s) of supported organization(s)	(b) Line number from above

- 14  An organization organized and operated to test for public safety. Section 509(a)(4). (See page 4 of the instructions.)

**Support Schedule** (Complete only if you checked a box on line 10, 11, or 12.) Use cash method of accounting.

Note: You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Calendar year (or fiscal year beginning in) ▶	(a) 1998	(b) 1997	(c) 1996	(d) 1995	(e) Total
15 Gifts, grants, and contributions received. (Do not include unusual grants. See line 28.) . . . . .					
16 Membership fees received . . . . .	20,000				20,000
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is not a business unrelated to the organization's charitable, etc., purpose . . . . .					
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975 . . . . .					
19 Net income from unrelated business activities not included in line 18 . . . . .					
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf. . . . .					
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge. . . . .					
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets . . . . .					
23 Total of lines 15 through 22. . . . .	20,000				20,000
24 Line 23 minus line 17. . . . .					
25 Enter 1% of line 23 . . . . .	200				

26 Organizations described on lines 10 or 11: a Enter 2% of amount in column (e), line 24. . . . . ▶	26a	0-
b Attach a list (which is not open to public inspection) showing the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 1995 through 1998 exceeded the amount shown in line 26a. Enter the sum of all these excess amounts. . . . . ▶	26b	
c Total support for section 509(a)(1) test: Enter line 24, column (e) . . . . . ▶	26c	
d Add: Amounts from column (e) for lines: 18 _____ 19 _____ 22 _____ 26b _____ . . . . . ▶	26d	
e Public support (line 26c minus line 26d total) . . . . . ▶	26e	
f Public support percentage (line 26e (numerator) divided by line 26c (denominator)) . . . . . ▶	26f	%

27 Organizations described on line 12: a For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," attach a list to show the name of, and total amounts received in each year from, each "disqualified person." Enter the sum of such amounts for each year:

(1998) _____ (1997) _____ (1996) _____ (1995) _____
b For any amount included in line 17 that was received from a nondisqualified person, attach a list to show the name of, and amount received for each year, that was more than the larger of (1) the amount on line 25 for the year or (2) \$5,000. (Include in the list organizations described in lines 5 through 11, as well as individuals.) After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year:
(1998) _____ (1997) _____ (1996) _____ (1995) _____

c Add: Amounts from column (e) for lines: 15 _____ 16 _____ 17 _____ 20 _____ 21 _____ . . . . . ▶	27c	
d Add: Line 27a total _____ and line 27b total _____ . . . . . ▶	27d	
e Public support (line 27c total minus line 27d total). . . . . ▶	27e	
f Total support for section 509(a)(2) test: Enter amount on line 23, column (e) . . . . . ▶	27f	
g Public support percentage (line 27e (numerator) divided by line 27f (denominator)). . . . . ▶	27g	%
h Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator)). . . . . ▶	27h	%

28 Unusual Grants: For an organization described in line 10, 11, or 12 that received any unusual grants during 1995 through 1998, attach a list (which is not open to public inspection) for each year showing the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not include these grants in line 15. (See page 4 of the instructions.)

Name(s) shown on return: **DENVER & RIO GRANDE RAILWAY HIST. FOUND.** Business or activity to which this form relates: Identifying number: **84-1433690**

**Part I Election To Expense Certain Tangible Property (Section 179)** (Note: If you have any "listed property," complete Part V before you complete Part I.)

1	Maximum dollar limitation. If an enterprise zone business, see page 2 of the instructions	1	\$19,000
2	Total cost of section 179 property placed in service. See page 2 of the instructions	2	-0-
3	Threshold cost of section 179 property before reduction in limitation	3	\$200,000
4	Reduction in limitation. Subtract line 3 from line 2. If zero or less, enter -0-	4	
5	Dollar limitation for tax year. Subtract line 4 from line 1. If zero or less, enter -0-. If married filing separately, see page 2 of the instructions	5	
6	(a) Description of property	(b) Cost (business use only)	(c) Elected cost
7	Listed property. Enter amount from line 27	7	
8	Total elected cost of section 179 property. Add amounts in column (c), lines 6 and 7	8	
9	Tentative deduction. Enter the smaller of line 5 or line 8	9	
10	Carryover of disallowed deduction from 1998. See page 2 of the instructions	10	
11	Business income limitation. Enter the smaller of business income (not less than zero) or line 5 (See instructions)	11	
12	Section 179 expense deduction. Add lines 9 and 10, but do not enter more than line 11	12	
13	Carryover of disallowed deduction to 2000. Add lines 9 and 10, less line 12	13	

Note: Do not use Part II or Part III below for listed property (automobiles, certain other vehicles, cellular telephones, certain computers, or property used for entertainment, recreation, or amusement). Instead, use Part V for listed property.

**Part II MACRS Depreciation For Assets Placed In Service ONLY During Your 1999 Tax Year (Do Not Include Listed Property.)**

Section A - General Asset Account Election  
 14 If you are making the election under section 168(f)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check this box. See page 3 of the instructions

Section B - General Depreciation System (GDS) (See page 3 of the instructions.)

(a) Classification of property	(b) Month and year placed in service	(c) Basis for depreciation (business/investment use only-see instructions)	(d) Recovery period	(e) Convention	(f) Method	(g) Depreciation deduction
15a 3-year property						
b 5-year property						
c 7-year property		SEE LIST	7	2000B	MACRS	972
d 10-year property						
e 15-year property						
f 20-year property						
g 25-year property			25 yrs.		S/L	
h Residential rental property			27.5 yrs.	MM	S/L	
i Nonresidential real property			27.5 yrs.	MM	S/L	
			39 yrs.	MM	S/L	

Section C - Alternative Depreciation System (ADS) (See page 5 of the instructions.)

16a Class life					S/L	
b 12-year			12 yrs.		S/L	
c 40-year			40 yrs.	MM	S/L	

**Part III Other Depreciation (Do Not Include Listed Property.)** (See page 5 of the instructions.)

17 GDS and ADS deductions for assets placed in service in tax years beginning before 1999	17	
18 Property subject to section 168(f)(1) election	18	
19 ACRS and other depreciation	19	

**Part IV Summary** (See page 6 of the instructions.)

20 Listed property. Enter amount from line 26	20	
21 Total. Add deductions on line 12, lines 15 and 16 in column (g), and lines 17 through 20. Enter here and on the appropriate lines of your return. Partnerships and S corporations - see instructions	21	972
22 For assets shown above and placed in service during the current year, enter the portion of the basis attributable to section 263A costs	22	

1999

Depreciation Detail Listing

For your records only

Form 7061 21 - Shows tax return Social security number EIN 84-1433680

DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION

No.	Description	Due	Cost	Saving percentage	Section 179	Depreciation Basis	Life	Method	Rate	Current depr.	Prior deduction	Prior expense	AMT Method	AMT Life	AMT Current
1	LINK & PIN	2/2/99	400			400	7	MACRS	14.29	57					
2	2- 8' X 16' TRAMS	4/27/99	3000			3000	7	MACRS	14.29	429					
3	MISC RE ITEMS	8/19/99	200			200	7	MACRS	14.29	29					
1a	1800 CABOOSE #4518	8/19/99	700			700	7	MACRS	14.29	100					
2a	1890 DINING CAR STANDARD GAUGE		2500			2500	7	MACRS	14.29	357					
1b	CREEPER BRANCH	8/19/99	624,616			624,616	-								
1c	LAND-SILVERTON 7.369 ACRES	1/3/99	34,000			34,000	-								
						665,416				972-					

Form 990

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

OMB No 1545-0047

2000

Department of the Treasury Internal Revenue Service

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

Open to Public Inspection

Header section containing organization name (DENVER & RIO GRANDE RAILWAY), address (1474 MAIN AVE, SUITE 223, DURANGO, CO 81301), and telephone number (970) 247-9498.

Organization type and accounting method section. Includes checkboxes for 501(c)(3), 527, or 4947(a)(1), and accounting method (Cash or Accrual).

Table with 21 rows detailing revenue, expenses, and net assets. Key figures include Total Revenue of 10,452 and Total Expenses of 13,339, resulting in a deficit of 2,887.

SCANNED APR 26 2002

Handwritten initials 'GA' in the bottom right corner.

Part II Statement of Functional Expenses		All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See Specific Instructions on page 20.)			
Do not include amounts reported on line 6b, 9b, 10b, or 16 of Part I		(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22	Grants and allocations (attach schedule) (cash \$ _____ noncash \$ _____) ..	22			
23	Specific assistance to individuals (attach schedule) ..	23			
24	Benefits paid to or for members (attach schedule) ..	24			
25	Compensation of officers, directors, etc ..	25			
26	Other salaries and wages ..	26			
27	Pension plan contributions ..	27			
28	Other employee benefits ..	28			
29	Payroll taxes ..	29			
30	Professional fundraising fees ..	30	1,639		1,639
31	Accounting fees ..	31	238	238	
32	Legal fees ..	32			
33	Supplies ..	33	810	680	130
34	Telephone ..	34	1,783	1,783	
35	Postage and shipping ..	35	391		391
36	Occupancy ..	36	1,750	1,750	
37	Equipment rental and maintenance ..	37	382	382	
38	Printing and publications ..	38	663		663
39	Travel ..	39	1,315	1,315	
40	Conferences, conventions, and meetings ..	40			
41	Interest ..	41			
42	Depreciation, depletion, etc (attach schedule) ..	42	1,665	1,665	
43	Other expenses (describe): a AUTO EXP	43a	747	747	
	b BANK FEES/CC FEES	43b	204	204	
	c INSURANCE	43c	1,683	1,683	
	d TAXES	43d	54	54	
	e DUES/SUBSCRIPTIONS	43e	15	15	
44	Total functional expenses (add lines 22 through 43). Organizations completing columns (B)-(D), carry these totals to lines 13-15	44	13,339	10,516	2,823

Reporting of Joint Costs: Did you report in column (B) (Program services) any joint costs from a combined educational campaign and fundraising solicitation?  Yes  No  
 If "Yes," enter (i) the aggregate amount of these joint costs \$ \_\_\_\_\_, (ii) the amount allocated to Program services \$ \_\_\_\_\_, (iii) the amount allocated to Management and general \$ \_\_\_\_\_, and (iv) the amount allocated to Fundraising \$ \_\_\_\_\_.

Part III Statement of Program Service Accomplishments (See Specific Instructions on page 23)

What is the organization's primary exempt purpose? ▶	Program Service Expenses (Required for 501(c)(3) and (4) orgs, and 4947(a)(1) trusts but optional for others)
a _____ (Grants and allocations \$ _____)	
b _____ (Grants and allocations \$ _____)	
c _____ (Grants and allocations \$ _____)	
d _____ (Grants and allocations \$ _____)	
e Other program services (attach schedule) (Grants and allocations \$ _____)	
f Total of Program Service Expenses (should equal line 44, column (B), Program services) . ▶	

**Part IV Balance Sheets** (See Specific Instructions on page 23)

Note	Where required, attached schedules and amounts within the description column should be for end-of-year amounts only	(A)		(B)	
		Beginning of year		End of year	
45	Cash - non-interest-bearing . . . . .	1,108	45	(117)	
46	Savings and temporary cash investments . . . . .	513	46	516	
47a	Accounts receivable . . . . .	47a			
	b Less allowance for doubtful accounts . . . . .	47b		47c	
48a	Pledges receivable . . . . .	48a			
	b Less allowance for doubtful accounts . . . . .	48b		48c	
49	Grants receivable . . . . .		49		
50	Receivables from officers, directors, trustees, and key employees (attach schedule) . . . . .		50		
51a	Other notes and loans receivable (attach schedule) . . . . .	51a			
	b Less allowance for doubtful accounts . . . . .	51b		51c	
52	Inventories for sale or use . . . . .		52		
53	Prepaid expenses and deferred charges . . . . .		53		
54	Investments - securities (attach schedule) . . . . .	<input type="checkbox"/> Cost <input type="checkbox"/> FMV	54		
55a	Investments - land, buildings, and equipment basis . . . . .	55a 34,000			
	b Less accumulated depreciation (attach schedule) . . . . .	55b	34,000	55c	34,000
56	Investments - other (attach schedule) . . . . .		56		
57a	Land buildings, and equipment basis . . . . .	57a 631,416			
	b Less accumulated depreciation (attach schedule) . . . . .	57b 2,637	630,444	57c	628,779
58	Other assets (describe ▶ _____)		58		
59	<b>Total assets (add lines 45 through 58) (must equal line 74) . . . . .</b>	<b>666,065</b>	<b>59</b>	<b>663,178</b>	
60	Accounts payable and accrued expenses . . . . .		60		
	61	Grants payable . . . . .		61	
62	Deferred revenue . . . . .		62		
63	Loans from officers, directors, trustees, and key employees (attach schedule) . . . . .		63		
64a	Tax-exempt bond liabilities (attach schedule) . . . . .		64a		
	b Mortgages and other notes payable (attach schedule) . . . . .		374,616	64b	374,616
65	Other liabilities (describe ▶ _____)		65		
66	<b>Total liabilities (add lines 60 through 65) . . . . .</b>	<b>374,616</b>	<b>66</b>	<b>374,616</b>	
67	Organizations that follow SFAS 117, check here <input type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74 . . . . .				
	67	Unrestricted . . . . .		67	
68	Temporarily restricted . . . . .		68		
69	Permanently restricted . . . . .		69		
70	Organizations that do not follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 70 through 74 . . . . .				
	70	Capital stock, trust principal, or current funds . . . . .		70	
71	Paid-in or capital surplus, or land, building, and equipment fund . . . . .		71	250,000	
72	Retained earnings, endowment, accumulated income, or other funds . . . . .	291,449	72	38,562	
73	<b>Total net assets or fund balances (add lines 67 through 69 OR lines 70 through 72, column (A) must equal line 19 and column (B) must equal line 21) . . . . .</b>	<b>291,449</b>	<b>73</b>	<b>288,562</b>	
74	<b>Total liabilities and net assets / fund balances (add lines 66 and 73) . . . . .</b>	<b>666,065</b>	<b>74</b>	<b>663,178</b>	

Form 990 is available for public inspection and, for some people serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes, in Part III the organization's programs and accomplishments.

Part IV-A Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See Specific Instructions page 25)		Part IV-B Reconciliation of Expenses per Audited Financial Statements with Expenses per Return	
a Total revenue, gains, and other support per audited financial statements ▶	a	a Total expenses and losses per audited financial statements ▶	a
	10,452		13,339
b Amounts included on line a but not on line 12, Form 990		b Amounts included on line a but not on line 17, Form 990	
(1) Net unrealized gains on investments \$ _____		(1) Donated services and use of facilities \$ _____	
(2) Donated services and use of facilities \$ _____		(2) Prior year adjustments reported on line 20, Form 990 \$ _____	
(3) Recoveries of prior year grants \$ _____		(3) Losses reported on line 20, Form 990 \$ _____	
(4) Other (specify) _____		(4) Other (specify) _____	
_____ \$		_____ \$	
Add amounts on lines (1) through (4) ▶	b	Add amounts on lines (1) through (4) ▶	b
c Line a minus line b ▶	c	c Line a minus line b ▶	c
	10,452		13,339
d Amounts included on line 12 Form 990 but not on line a		d Amounts included on line 17, Form 990 but not on line a	
(1) Investment expenses not included on line 6b, Form 990 \$ _____		(1) Investment expenses not included on line 6b, Form 990 \$ _____	
(2) Other (specify) _____		(2) Other (specify) _____	
_____ \$		_____ \$	
Add amounts on lines (1) and (2) ▶	d	Add amounts on lines (1) and (2) ▶	d
e Total revenue per line 12, Form 990 (line c plus line d) ▶	e	e Total expenses per line 17, Form 990 (line c plus line d) ▶	e
	10,452		13,339

**Part V List of Officers, Directors, Trustees, and Key Employees** (List each one even if not compensated, see Specific Instructions on page 25)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (\$ if not paid, enter -0-)	(D) Contributions to employee benefit plans & deferred compensation	(E) Expense account and other allowances
DONALD H. SHANK 1474 MAIN AVE, STE 223	FOUNDER 60			
ROBERT W. SHANK 1861 HARRIETT DR, CLARKSVILLE	VICE CHAIRMAN			
RICHARD L. MILLARD 601 ANIMAS VIEW DR DURANGO CO	TREASURER			
MARTIN P. PIRNAT 1474 MAIN AVE DURANGO CO	DIRECTOR			
WILLIAM COOLEY 1474 MAIN AVE DURANGO CO	DIRECTOR			
ROBERT A. GRAM 1474 MAIN AVE DURANGO CO	DIRECTOR			

75 Did any officer, director, trustee or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations, of which more than \$10,000 was provided by the related organizations?  Yes  No  
If "Yes" attach schedule - see Specific Instructions on page 26

Part VI Other information (See Specific Instructions on page 26)		N/A	Yes	No
76	Did the organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity	76		X
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes	77		X
78a	Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?	78a		X
b	If "Yes," has it filed a tax return on Form 990-T for this year?	78b		X
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement	79		X
80a	Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?	80a		X
b	If "Yes," enter the name of the organization _____ and check whether it is <input type="checkbox"/> exempt OR <input type="checkbox"/> nonexempt			
81a	Enter the amount of political expenditures, direct or indirect, as described in the instructions for line 81 _____ 81a			
b	Did the organization file Form 1120-POL for this year?	81b		X
82a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?	82a		X
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II (See instructions for reporting in Part III) _____ 82b			
83a	Did the organization comply with the public inspection requirements for returns and exemption applications?	83a	X	
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	83b	X	
84a	Did the organization solicit any contributions or gifts that were not tax deductible?	84a		X
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	84b		
85	501(c)(4), (5), or (6) organizations. a Were substantially all dues nondeductible by members?	85a		X
b	Did the organization make only in-house lobbying expenditures of \$2,000 or less? If "Yes" was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year	85b		X
c	Dues assessments, and similar amounts from members _____ 85c			
d	Section 162(e) lobbying and political expenditures _____ 85d			
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices _____ 85e			
f	Taxable amount of lobbying and political expenditures (line 85d less 85e) _____ 85f			
g	Does the organization elect to pay the section 6033(e) tax on the amount in 85f?	85g		X
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount in 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?	85h		X
86	501(c)(7) organizations. Enter a Initiation fees and capital contributions included on line 12 _____ 86a			
b	Gross receipts, included on line 12 for public use of club facilities _____ 86b			
87	501(c)(12) orgs. Enter a Gross income from members or shareholders _____ 87a			
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them) _____ 87b			
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership, or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX _____ 88			X
89a	501(c)(3) organizations. Enter Amount of tax imposed on the organization during the year under section 4911 _____ section 4912 _____ section 4955 _____			
b	501(c)(3) and 501(c)(4) orgs. Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction _____ 89b			X
c	Enter Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958 _____			
d	Enter Amount of tax on line 89c, above, reimbursed by the organization _____			
90a	List the states with which a copy of this return is filed _____ COLORADO			
b	Number of employees employed in the pay period that includes March 12, 2000 (See inst.) _____ 90b			
91	The books are in care of _____ DONALD SHANK Telephone no _____ 970-247-9498 Located at _____ 1474 MAIN AVE STE 223 DGO CO ZIP code _____ 81301			
92	Section 4947(a)(1) nonexempt charitable trusts filing Form 990 in lieu of Form 1041-Check here and enter the amount of tax-exempt interest received or accrued during the tax year _____ 92			



**Part III Statements About Activities**

	Yes	No
1 During the year, has the organization attempted to influence national, state, or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? . . . . . If "Yes" enter the total expenses paid or incurred in connection with the lobbying activities ▶ \$ _____ Organizations that made an election under section 501(h) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes," must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities.	1	X
2 During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any of its trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary:		
a Sale, exchange, or leasing of property?	2a	X
b Lending of money or other extension of credit?	2b	X
c Furnishing of goods, services, or facilities?	2c	X
d Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)?	2d	X
e Transfer of any part of its income or assets? If the answer to any question is "Yes" attach a detailed statement explaining the transactions.	2e	X
3 Does the organization make grants for scholarships, fellowships, student loans, etc? . . . . .	3	X
4a Do you have a section 403(b) annuity plan for your employees? . . . . .	4a	X
b Attach a statement to explain how the organization determines that individuals or organizations receiving grants or loans from it in furtherance of its charitable programs qualify to receive payments. (See page 2 of the instructions.)		

**Part IV Reason for Non-Private Foundation Status** (See pages 2 through 5 of the instructions.)

The organization is not a private foundation because it is (Please check only ONE applicable box.)

- 5  A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
- 6  A school. Section 170(b)(1)(A)(ii). (Also complete Part V, page 5.)
- 7  A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
- 8  A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(v).
- 9  A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(ii). Enter the hospital's name, city, and state ▶ \_\_\_\_\_.
- 10  An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the Support Schedule in Part IV-A.)
- 11a  An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
- 11b  A community trust. Section 170(b)(1)(A)(vii). (Also complete the Support Schedule in Part IV-A.)
- 12  An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions - subject to certain exceptions, and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Also complete the Support Schedule in Part IV-A.)
- 13  An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in (1) lines 5 through 12 above, or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See page 5 of the instructions.)

(a) Name(s) of supported organization(s)	(b) Line number from above

- 14  An organization organized and operated to test for public safety. Section 509(a)(4). (See page 5 of the instructions.)

**Part IV-A Support Schedule** (Complete only if you checked a box on line 10, 11, or 12.) Use cash method of accounting.

Note: You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Calendar year (or fiscal year beginning in) . . . ▶	(a) 1999	(b) 1998	(c) 1997	(d) 1996	(e) Total
<b>15</b> Gifts, grants, and contributions received (Do not include unusual grants. See line 28) . . .	260,971				260,971
<b>16</b> Membership fees received . . .	2,705	20,000			22,705
<b>17</b> Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is not a business unrelated to the organization's charitable, etc., purpose . . .					
<b>18</b> Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975 . . .					
<b>19</b> Net income from unrelated business activities not included in line 18 . . .					
<b>20</b> Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf . . .					
<b>21</b> The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge . . .					
<b>22</b> Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets . . .					
<b>23</b> Total of lines 15 through 22 . . .	263,676	20,000			283,676
<b>24</b> Line 23 minus line 17 . . .	263,676	20,000			283,676
<b>25</b> Enter 1% of line 23 . . .	2,637	200			
<b>26</b> Organizations described in lines 10 or 11 . . .	a Enter 2% of amount in column (e), line 24.				<b>26a</b> 5,674
	b Attach a list (which is not open to public inspection) showing the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 1996 through 1999 exceeded the amount shown in line 26a. Enter the sum of all these excess amounts . . .				<b>26b</b>
	c Total support for section 509(a)(1) test. Enter line 24, column (e) . . .				<b>26c</b> 283,676
	d Add: Amounts from column (e) for lines 18 _____ 19 _____				<b>26d</b>
	22 _____ 26b _____				<b>26e</b> 283,676
	e Public support (line 26c minus line 26d total) . . .				<b>26f</b> 1.00%
<b>27</b> Organizations described on line 12 . . .	a For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," attach a list (which is not open to public inspection) to show the name of, and total amounts received in each year from each "disqualified person." Enter the sum of such amounts for each year . . .				
	(1999) _____	(1998) _____	(1997) _____	(1996) _____	
	b For any amount included in line 17 that was received from a nondisqualified person, attach a list to show the name of, and amount received for each year that was more than the larger of (1) the amount on line 25 for the year or (2) \$5,000 (include in the list organizations described in lines 5 through 11, as well as individuals.) After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year . . .				
	(1999) _____	(1998) _____	(1997) _____	(1996) _____	
	c Add: Amounts from column (e) for lines 15 <u>260,971</u> 16 <u>22,705</u>				<b>27c</b> 283,676
	17 _____ 20 _____ 21 _____				<b>27d</b>
	d Add: Line 27a total _____ and line 27b total _____				<b>27e</b> 283,676
	e Public support (line 27c total minus line 27d total) . . .				<b>27f</b> 283,676
	f Total support for section 509(a)(2) test. Enter amount on line 23, column (e) . . .				<b>27g</b> 1.00%
	g Public support percentage (line 27e (numerator) divided by line 27f (denominator)) . . .				<b>27h</b> %
	h Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator)) . . .				
<b>28</b> Unusual Grants . . .	For an organization described in line 10, 11, or 12 that received any unusual grants during 1996 through 1999, attach a list (which is not open to public inspection) for each year showing the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not include these grants in line 15. (See page 5 of the instructions.)				

Form 990

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)

OMB No 1545-0047

2001

Department of the Treasury Internal Revenue Service

The organization may have to use a copy of this return to satisfy state reporting requirements, 2001, and ending, 20

Open to Public Inspection

Form 990 header section including: A For the 2001 calendar year, or tax year beginning; B Check if applicable; C Name of organization; D Employer identification number; E Telephone number; F Accounting method; G Web site; H Organization type; I Gross receipts; J and K Check here; L Enter 4-digit GEN; M Check if the organization is not required to attach Sch. B.

Part I Revenue, Expenses, and Changes in Net Assets or Fund Balances (See Specific Instructions on page 16)

Table with 21 rows and 4 columns (1a-1d). Rows include: 1 Contributions, gifts, grants and similar amounts received; 2 Program service revenue including government fees and contracts; 3 Membership dues and assessments; 4 Interest on savings and temporary cash investments; 5 Dividends and interest from securities; 6a Gross rents; 6b Less rental expenses; 6c Net rental income or (loss); 7 Other investment income; 8a Gross amount from sales of assets other than inventory; 8b Less cost or other basis and sales expenses; 8c Gain or (loss); 8d Net gain or (loss); 9 Special events and activities; 9a Gross revenue; 9b Less direct expenses other than fundraising expenses; 9c Net income or (loss) from special events; 10a Gross sales of inventory, less returns and allowances; 10b Less cost of goods sold; 10c Gross profit or (loss) from sales of inventory; 11 Other revenue; 12 Total revenue; 13 Program services; 14 Management and general; 15 Fundraising; 16 Payments to affiliates; 17 Total expenses; 18 Excess or (deficit) for the year; 19 Net assets or fund balances at beginning of year; 20 Other changes in net assets or fund balances; 21 Net assets or fund balances at end of year.

RECEIVED JUN 07 2002 OGDEN, UT

SCANNED JUL 01 2002

**Part II** Statement of Functional Expenses

All organizations must complete column (A). Columns (B), (C), and (D) are required for section 501(c)(3) and (4) organizations and section 4947(a)(1) nonexempt charitable trusts but optional for others. (See Specific Instructions on page 31.)

Do not include amounts reported on line (6b, 8b, 9b, 10b, or 16 of Part I)	(A) Total	(B) Program services	(C) Management and general	(D) Fundraising
22 Grants and allocations (attach schedule) (cash \$ _____ noncash \$ _____)	22			
23 Specific assistance to individuals (attach schedule)	23			
24 Benefits paid to or for members (attach schedule)	24			
25 Compensation of officers, directors, etc.	25			
26 Other salaries and wages	26			
27 Pension plan contributions	27			
28 Other employee benefits	28			
29 Payroll taxes	29			
30 Professional fundraising fees	30			
31 Accounting fees	31			
32 Legal fees	32 22,075			
33 Supplies	33 469			
34 Telephone	34 1,459			
35 Postage and shipping	35 316			
36 Occupancy	36 1,800			
37 Equipment rental and maintenance	37 3,000			
38 Printing and publications	38 254			
39 Travel	39 481			
40 Conferences, conventions, and meetings	40			
41 Interest	41			
42 Depreciation, depletion, etc. (attach schedule)	42 3,080			
43 Other expenses not covered above (specify): <b>TAXES</b>	43a 730			
<b>b INSURANCE</b>	43b 800			
<b>c LICENSES &amp; PERMITS</b>	43c 270			
<b>d ACCOUNTING FEES</b>	43d 1,180			
<b>e</b>	43e			
44 Total functional expenses (add lines 22 through 43) <b>Organizations completing columns (B)-(D), carry these totals to lines 13-15</b>	44 35,916			

Joint Costs Check  if you are following SOP 98-2

Are any joint costs from a combined educational campaign and fundraising solicitation reported in (B) Program services?  Yes  No

If "Yes," enter (i) the aggregate amount of these joint costs \$ \_\_\_\_\_, (ii) the amount allocated to Program services \$ \_\_\_\_\_,

(iii) the amount allocated to Management and general \$ \_\_\_\_\_, and (iv) the amount allocated to Fundraising \$ \_\_\_\_\_

**Part III** Statement of Program Service Accomplishments (See Specific Instructions on page 24.)

What is the organization's primary exempt purpose?  \_\_\_\_\_  
 All organizations must describe their exempt purpose achievements in a clear and concise manner. State the number of clients served, publications issued, etc. Discuss achievements that are not measurable. (Section 501(c)(3) and (4) organizations and 4947(a)(1) nonexempt charitable trusts must also enter the amount of grants and allocations to others.)

Program Service Expenses  
 Required for 501(c)(3) and (4) orgs. and 4947(a)(1) trusts. Not optional for others.

a	(Grants and allocations \$ _____)	
b	(Grants and allocations \$ _____)	
c	(Grants and allocations \$ _____)	
d	(Grants and allocations \$ _____)	
e	Other program services (attach schedule) (Grants and allocations \$ _____)	
f	Total of Program Service Expenses (should equal line 44, column (B), Program services)	

**Part IV Balance Sheets** (See Specific Instructions on page 24.)

Note	Where required attached schedules and amounts within the description column should be for end-of-year amounts only	(A)		(B)	
		Beginning of year		End of year	
45	Cash - non-interest-bearing	(117)	45	726	
46	Savings and temporary cash investments	516	46	516	
47a	Accounts receivable		47a		
b	Less allowance for doubtful accounts		47b	47c	
48a	Pledges receivable		48a		
b	Less allowance for doubtful accounts		48b	48c	
49	Grants receivable		49		
50	Receivables from officers, directors, trustees, and key employees (attach schedule)		50		
A	51a Other notes and loans receivable (attach schedule)		51a		
s	b Less allowance for doubtful accounts		51b	51c	
e	52 Inventories for sale or use		52		
t	53 Prepaid expenses and deferred charges		53		
s	54 Investments - securities (attach schedule)	<input type="checkbox"/> Cost <input type="checkbox"/> FMV	54		
	55a Investments - land, buildings, and equipment basis	34,000	55a		
	b Less accumulated depreciation (attach schedule)		55b	55c	34,000
	56 Investments - other (attach schedule)		56		
	57a Land, buildings, and equipment basis	641,588	57a		
	b Less accumulated depreciation (attach schedule)		57b	57c	635,871
	58 Other assets (describe )		58		
	59 Total assets (add lines 45 through 58) (must equal line 74)	663,178	59	671,114	
L	60 Accounts payable and accrued expenses		60		
i	61 Grants payable		61		
a	62 Deferred revenue		62		
b	63 Loans from officers, directors, trustees, and key employees (attach schedule)		63		
i	64a Tax-exempt bond liabilities (attach schedule)		64a		
t	b Mortgages and other notes payable (attach schedule)	374,616	64b	413,586	
j	65 Other liabilities (describe )		65		
e	66 Total liabilities (add lines 60 through 65)	374,616	66	413,586	
s	Organizations that follow SFAS 117, check here <input type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74				
N	67 Unrestricted		67		
F	68 Temporarily restricted		68		
e	69 Permanently restricted		69		
u	Organizations that do not follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 70 through 74				
d	70 Capital stock, trust principal, or current funds		70		
A	71 Paid-in or capital surplus, or land, building, and equipment fund	250,000	71	250,000	
S	72 Retained earnings, endowment, accumulated income, or other funds	38,562	72	7,528	
B	73 Total net assets or fund balances (add lines 67 through 69 OR lines 70 through 72, column (A) must equal line 19, column (B) must equal line 21)	288,562	73	257,528	
s	74 Total liabilities and net assets / fund balances (add lines 66 and 73)	663,178	74	671,114	

Form 990 is available for public inspection and, for some people, serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes in Part III the organization's programs and accomplishments.

**Part IV-A** Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See Specific Instructions, page 26.)

**Part IV-B** Reconciliation of Expenses per Audited Financial Statements with Expenses per Return

<p>a Total revenue gains, and other support per audited financial statements <b>j</b> a 4,942</p> <p>b Amounts included on line a but not on line 12, Form 990</p> <p>(1) Net unrealized gains on investments \$ _____</p> <p>(2) Donated services and use of facilities \$ _____</p> <p>(3) Recoveries of prior year grants \$ _____</p> <p>(4) Other (specify) _____</p> <p>_____ \$</p> <p>Add amounts on lines (1) through (4) <b>j</b> b</p> <p>c Line a minus line b <b>j</b> c 4,942</p> <p>d Amounts included on line 12, Form 990 but not on line a</p> <p>(1) Investment expenses not included on line 6b Form 990 \$ _____</p> <p>(2) Other (specify) _____</p> <p>_____ \$</p> <p>Add amounts on lines (1) and (2) <b>j</b> d</p> <p>e Total revenue per line 12, Form 990 (line c plus line d) <b>j</b> e 4,942</p>	<p>a Total expenses and losses per audited financial statements <b>j</b> a 35,916</p> <p>b Amounts included on line a but not on line 17 Form 990</p> <p>(1) Donated services and use of facilities \$ _____</p> <p>(2) Prior year adjustments reported on line 20 Form 990 \$ _____</p> <p>(3) Losses reported on line 20, Form 990 \$ _____</p> <p>(4) Other (specify) _____</p> <p>_____ \$</p> <p>Add amounts on lines (1) through (4) <b>j</b> b</p> <p>c Line a minus line b <b>j</b> c 35,916</p> <p>d Amounts included on line 17, Form 990 but not on line a</p> <p>(1) Investment expenses not included on line 6b Form 990 \$ _____</p> <p>(2) Other (specify) _____</p> <p>_____ \$</p> <p>Add amounts on lines (1) and (2) <b>j</b> d</p> <p>e Total expenses per line 17, Form 990 (line c plus line d) <b>j</b> e 35,916</p>
--	---

**Part V** List of Officers, Directors, Trustees, and Key Employees

(List each one even if not compensated, see Specific Instructions on page 26.)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (If not paid, enter 0)	(D) Contributions to employee benefits plans & deferred compensation	(E) Expense account and other allowances
DONALD H SHANK 1474 MAIN AVE, STE 223	FOUNDER	0		
ROBERT W. SHANK 1861 HARRIETT DR, CLARKSVILLE	VICE CHAIRMAN	0		
RICHARD L MILLARD 601 ANIMAS VIEW DR DURANGO CO	TREASURER	0		
MARTIN P. PIRNAT 1474 MAIN AVE DURANGO CO	DIRECTOR	0		
WILLIAM COOLEY 1474 MAIN AVE DURANGO CO	DIRECTOR	0		
ROBERT A. GRAM 1474 MAIN AVE DURANGO CO	DIRECTOR	0		

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations, of which more than \$10,000 was provided by the related organizations? **j**  Yes  No  
If "Yes," attach schedule - see Specific Instructions on page 27



**Part VII Analysis of Income-Producing Activities**

(See Specific Instructions on page 32.)

Note: Enter gross amounts unless otherwise indicated	Unrelated business income		Excluded by section 512, 513, or 514		(E) Refused or exempt function income
	(A) Business code	(B) Amount	(C) Exclusion code	(D) Amount	
93 Program service revenue					
a _____					
b _____					
c _____					
d _____					
e _____					
f Medicare/Medicaid payments					
g Fees and contracts from government agencies					
94 Membership dues and assessments					
95 Interest on savings and temporary cash investments					
96 Dividends and interest from securities					
97 Net rental income or (loss) from real estate					
a debt-financed property					
b not debt-financed property					
98 Net rental income or (loss) from personal property					
99 Other investment income					
100 Gain or (loss) from sales of assets other than inventory					
101 Net income or (loss) from special events					
102 Gross profit or (loss) from sales of inventory					
103 Other revenue					
a _____					
b _____					
c _____					
d _____					
e _____					
104 Subtotal (add columns (B), (D), and (E))					
105 Total (add line 104, columns (B) (D), and (E))					

Note: Line 105 plus line 1d, Part I should equal the amount on line 12, Part I.

**Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes**

(See Specific Instructions on page 32.)

Line No	Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes)
▼	

**Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities**

(See Specific Instructions on page 33.)

(A) Name, address, and EIN of corporation, partnership, or disregarded entity	(B) Percentage of ownership interest	(C) Nature of activities	(D) Total income	(E) End-of-year assets
	%			
	%			
	%			
	%			

**Part X Information Regarding Transfers Associated with Personal Benefit Contracts** (See Specific Instructions on page 33.)

- (a) Did the organization during the year receive any funds directly or indirectly to pay premiums on a personal benefit contract?  Yes  No
- (b) Did the organization during the year pay premiums, directly or indirectly on a personal benefit contract?  Yes  No

Note: If "Yes" to (b), file Form 8870 and Form 4720 (see instructions).

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 this return correctly represents the information of which preparer has any knowledge.

Please



*J. E. DIRECTOR*

15/31/02  
Date



**Part III Statements About Activities** (See page 2 of the instructions)

	Yes	No
1 During the year has the organization attempted to influence national state or local legislation, including any attempt to influence public opinion on a legislative matter or referendum? If "Yes" enter the total expenses paid or incurred in connection with the lobbying activities \$ _____ (Must equal amounts on line 38, Part VI-A, or line 1 of Part VI-B) Organizations that made an election under section 501(b) by filing Form 5768 must complete Part VI-A. Other organizations checking "Yes," must complete Part VI-B AND attach a statement giving a detailed description of the lobbying activities		
2 During the year, has the organization, either directly or indirectly, engaged in any of the following acts with any substantial contributors, trustees, directors, officers, creators, key employees, or members of their families, or with any taxable organization with which any such person is affiliated as an officer, director, trustee, majority owner, or principal beneficiary? (If the answer to any question is "Yes," attach a detailed statement explaining the transactions.)		
a Sale exchange or leasing of property?	2a	
b Lending of money or other extension of credit?	2b	
c Furnishing of goods, services or facilities?	2c	
d Payment of compensation (or payment or reimbursement of expenses if more than \$1,000)?	2d	
e Transfer of any part of its income or assets?	2e	
3 Does the organization make grants for scholarships, fellowships, student loans, etc.? (See Note below)	3	
4 Do you have a section 403(b) annuity plan for your employees?	4	
Note: Attach a statement to explain how the organization determines that individuals or organizations receiving grants or loans from it in furtherance of its charitable programs "qualify" to receive payments.		

**Part IV Reason for Non-Private Foundation Status** (See pages 3 through 6 of the instructions)

The organization is not a private foundation because it is: (Please check only ONE applicable box.)

- 5  A church, convention of churches, or association of churches. Section 170(b)(1)(A)(i).
- 6  A school. Section 170(b)(1)(A)(ii). (Also complete Part V.)
- 7  A hospital or a cooperative hospital service organization. Section 170(b)(1)(A)(iii).
- 8  A Federal, state, or local government or governmental unit. Section 170(b)(1)(A)(v).
- 9  A medical research organization operated in conjunction with a hospital. Section 170(b)(1)(A)(iii). Enter the hospital's name, city, and state: \_\_\_\_\_
- 10  An organization operated for the benefit of a college or university owned or operated by a governmental unit. Section 170(b)(1)(A)(iv). (Also complete the Support Schedule in Part IV-A.)
- 11a  An organization that normally receives a substantial part of its support from a governmental unit or from the general public. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
- 11b  A community trust. Section 170(b)(1)(A)(vi). (Also complete the Support Schedule in Part IV-A.)
- 12  An organization that normally receives (1) more than 33 1/3% of its support from contributions, membership fees, and gross receipts from activities related to its charitable, etc., functions - subject to certain exceptions - and (2) no more than 33 1/3% of its support from gross investment income and unrelated business taxable income (less section 511 tax) from businesses acquired by the organization after June 30, 1975. See section 509(a)(2). (Also complete the Support Schedule in Part IV-A.)
- 13  An organization that is not controlled by any disqualified persons (other than foundation managers) and supports organizations described in (1) lines 5 through 12 above or (2) section 501(c)(4), (5), or (6), if they meet the test of section 509(a)(2). (See section 509(a)(3).)

Provide the following information about the supported organizations. (See page 5 of the instructions.)

(a) Name(s) of supported organization(s)	(b) Line number from above

- 14  An organization organized and operated to test for public safety. Section 509(a)(4). (See page 6 of the instructions.)

**Part IV-A Support Schedule** (Complete only if you checked a box on line 10, 11, or 12.) Use cash method of accounting.

Note: You may use the worksheet in the instructions for converting from the accrual to the cash method of accounting.

Calendar year (or fiscal year beginning in)	(a) 2000	(b) 1999	(c) 1998	(d) 1997	(e) Total
15 Gifts, grants, and contributions received (Do not include unusual grants. See line 28.)		260,971			260,971
16 Membership fees received		2,705	20,000		22,705
17 Gross receipts from admissions, merchandise sold or services performed, or furnishing of facilities in any activity that is related to the organization's charitable, etc., purpose					
18 Gross income from interest, dividends, amounts received from payments on securities loans (section 512(a)(5)), rents, royalties, and unrelated business taxable income (less section 511 taxes) from businesses acquired by the organization after June 30, 1975					
19 Net income from unrelated business activities not included in line 18					
20 Tax revenues levied for the organization's benefit and either paid to it or expended on its behalf					
21 The value of services or facilities furnished to the organization by a governmental unit without charge. Do not include the value of services or facilities generally furnished to the public without charge.					
22 Other income. Attach a schedule. Do not include gain or (loss) from sale of capital assets.					
23 Total of lines 15 through 22		263,676	20,000		283,676
24 Line 23 minus line 17		263,676	20,000		283,676
25 Enter 1% of line 23		2,637	200		
26 Organizations described on lines 10 or 11. a. Enter 2% of amount in column (e), line 24.					5,674
b. Prepare a list for your records to show the name of and amount contributed by each person (other than a governmental unit or publicly supported organization) whose total gifts for 1997 through 2000 exceeded the amount shown in line 26a. Do not file this list with your return. Enter the total of all these excess amounts.					
c. Total support for section 509(a)(1) test. Enter line 24, column (e).					283,676
d. Add amounts from column (e) for lines: 18 _____ 19 _____					
22 _____ 26b _____					
e. Public support (line 26c minus line 26d total)					283,676
f. Public support percentage (line 26e (numerator) divided by line 26c (denominator))					1.00%
27 Organizations described on line 12. a. For amounts included in lines 15, 16, and 17 that were received from a "disqualified person," prepare a list for your records to show the name of, and total amounts received in each year from, each "disqualified person." Do not file this list with your return. Enter the sum of such amounts for each year.	(2000) _____	(1999) _____	(1998) _____	(1997) _____	
b. For any amount included in line 17 that was received from each person (other than "disqualified persons"), prepare a list for your records to show the name of, and amount received for each year, that was more than the larger of (1) the amount on line 25 for the year or (2) \$5,000 (include in the list organizations described in lines 5 through 11, as well as individuals.) Do not file this list with your return. After computing the difference between the amount received and the larger amount described in (1) or (2), enter the sum of these differences (the excess amounts) for each year.	(2000) _____	(1999) _____	(1998) _____	(1997) _____	
c. Add amounts from column (e) for lines: 15 _____ 16 _____					
17 _____ 20 _____ 21 _____					
d. Add line 27a total _____ and line 27b total _____					
e. Public support (line 27c total minus line 27d total)					
f. Total support for section 509(a)(2) test. Enter amount on line 23, column (e).					283,676
g. Public support percentage (line 27e (numerator) divided by line 27f (denominator))					%
h. Investment income percentage (line 18, column (e) (numerator) divided by line 27f (denominator))					%
28 Unusual Grants. For an organization described in line 10, 11, or 12 that received any unusual grants during 1997 through 2000, prepare a list for your records to show, for each year, the name of the contributor, the date and amount of the grant, and a brief description of the nature of the grant. Do not file this list with your return. Do not include these grants in line 15.					

Form 4562

Depreciation and Amortization (Including Information on Listed Property)

OMB No 1545-0172

2001

Department of the Treasury Internal Revenue Service (99)

See separate instructions

Attach this form to your return

Attachment Sequence No 67

Name(s) shown on return

Business or activity to which this form relates

Identifying number 84-1433680

DENVER & RIO GRANDE RAILWAY

MANAGEMENT/GENERAL -

Part I Election To Expense Certain Tangible Property (Section 179)

Note If you have any "listed property," complete Part V before you complete Part I

Table with 5 columns: Line number, Description, and Amount. Lines 1-13 detailing election to expense certain tangible property.

Note Do not use Part II or Part III below for listed property (automobiles, certain other vehicles, cellular telephones, certain computers, or property used for entertainment, recreation, or amusement). Instead, use Part V for listed property.

Part II MACRS Depreciation For Assets Placed in Service Only During Your 2001 Tax Year (Do not include listed property)

Section A - General Asset Account Election

14 If you are making the election under section 168(i)(4) to group any assets placed in service during the tax year into one or more general asset accounts, check this box. See page 3 of the instructions.

Section B - General Depreciation System (GDS) (See page 3 of the instructions)

Table with 7 columns: (a) Classification of property, (b) Month and year placed in service, (c) Basis for depreciation, (d) Recovery period, (e) Convention, (f) Method, (g) Depreciation deduction. Includes rows for 3-year, 5-year, 7-year, 10-year, 15-year, 20-year, and 25-year property.

Section C - Alternative Depreciation System (ADS) (See page 5 of the instructions)

Table with 4 columns: (a) Class life, (b) Recovery period, (c) Convention, (d) Method. Includes rows for 12-year and 40-year class life.

Part III Other Depreciation (Do not include listed property) (See page 5 of the instructions)

Table with 2 columns: Line number and Amount. Lines 17-19 detailing other depreciation.

Part IV Summary (See page 6 of the instructions)

Table with 2 columns: Line number and Amount. Lines 20-22 summarizing depreciation.

For Paperwork Reduction Act Notice, see the separate instructions

EEA

Form 4562 (2001)

FORM 4562 - LINE 15B

2001  
STM 50  
PG01

Name(s) shown on return  
DENVER & RIO GRANDE RAILWAY

Identifying Number  
84-1433680

BASIS	RP	CV	METHOD	DEDUCTION
7,372	5	HY	200 DB	1,474
300	5	HY	200 DB	60
<b>TOTALS</b>				<b>1,534</b>

Part IV Balance Sheets (See page 24 of the instructions)		(A)	(B)
Note	Where required, attached schedules and amounts within the description column should be for end-of-year amounts only	Beginning of year	End of year
45	Cash - non-interest bearing	726	4,360
46	Savings and temporary cash investments	577	1,892
47a	Accounts receivable		
47b	Less allowance for doubtful accounts		
48a	Pledges receivable		
48b	Less allowance for doubtful accounts		
49	Grants receivable		
50	Receivables from officers, directors, trustees, and key employees (attach schedule)		
51a	Other notes and loans receivable (attach schedule)		
51b	Less allowance for doubtful accounts		
52	Inventories for sale or use		
53	Prepaid expenses and deferred charges		
54	Investments - securities (attach schedule) <input type="checkbox"/> Cost <input type="checkbox"/> FMV		
55a	Investments - land, buildings, and equipment - basis	34,000	
55b	Less accumulated depreciation (attach schedule)	34,000	34,000
56	Investments - other (attach schedule)		
57a	Land, buildings, and equipment - basis	658,856	
57b	Less accumulated depreciation (attach schedule)	635,871	658,856
58	Other assets (describe <input type="checkbox"/> )	671,114	699,108
59	<b>Total assets (add lines 45 through 58) (must equal line 74)</b>		
60	Accounts payable and accrued expenses		
61	Grants payable		
62	Deferred revenue		
63	Loans from officers, directors, trustees, and key employees (attach schedule)		
64a	Tax-exempt bond liabilities (attach schedule)	413,586	454,873
64b	Mortgages and other notes payable (attach schedule)		
65	Other liabilities (describe <input type="checkbox"/> )		
66	<b>Total liabilities (add lines 60 through 65)</b>	413,586	454,873
Organizations that follow SFAS 117, check here <input type="checkbox"/> and complete lines 67 through 69 and lines 73 and 74			
67	Unrestricted		
68	Temporarily restricted		
69	Permanently restricted		
Organizations that do not follow SFAS 117, check here <input checked="" type="checkbox"/> and complete lines 70 through 74			
70	Capital stock, trust principal, or current funds	250,000	250,000
71	Paid-in or capital surplus, or land, building, and equipment fund	7,528	(57,65)
72	Retained earnings, endowment, accumulated income, or other funds		
73	<b>Total net assets or fund balances (add lines 67 through 69 or lines 70 through 72, column (A) must equal line 19, column (B) must equal line 21)</b>	257,528	244,235
74	<b>Total liabilities and net assets / fund balances (add lines 66 and 73)</b>	671,114	699,108

Form 990 is available for public inspection and for some people serves as the primary or sole source of information about a particular organization. How the public perceives an organization in such cases may be determined by the information presented on its return. Therefore, please make sure the return is complete and accurate and fully describes in Part III, the organization's programs and accomplishments.

Part IV-A Reconciliation of Revenue per Audited Financial Statements with Revenue per Return (See page 26 of the instructions)				Part IV-B Reconciliation of Expenses per Audited Financial Statements with Expenses per Return			
a	Total revenue, gains, and other support per audited financial statements	j	a <u>23,830</u>	a	Total expenses and losses per audited financial statements	j	a <u>46,815</u>
b	Amounts included on line a but not on line 12, Form 990			b	Amounts included on line a but not on line 17, Form 990		
	(1) Net unrealized gains on investments \$ _____				(1) Donated services and use of facilities \$ _____		
	(2) Donated services and use of facilities \$ _____				(2) Prior year adjustments reported on line 20 Form 990 \$ _____		
	(3) Recoveries of prior year grants \$ _____				(3) Losses reported on line 20, Form 990 \$ _____		
	(4) Other (specify) _____				(4) Other (specify) _____		
	_____ \$ _____				_____ \$ _____		
	Add amounts on lines (1) through (4)	j	b		Add amounts on lines (1) through (4)	j	b
c	Line a minus line b	j	c <u>23,830</u>	c	Line a minus line b	j	c <u>46,815</u>
d	Amounts included on line 12 Form 990 but not on line a			d	Amounts included on line 17 Form 990 but not on line a		
	(1) Investment expenses not included on line 6b, Form 990 \$ _____				(1) Investment expenses not included on line 6b, Form 990 \$ _____		
	(2) Other (specify) _____				(2) Other (specify) _____		
	_____ \$ _____				_____ \$ _____		
	Add amounts on lines (1) and (2)	j	d		Add amounts on lines (1) and (2)	j	d
e	Total revenue per line 12 Form 990 (line c plus line d)	j	e <u>23,830</u>	e	Total expenses per line 17 Form 990 (line c plus line d)	j	e <u>46,815</u>

**Part V List of Officers, Directors, Trustees, and Key Employees** (List each one even if not compensated see page 26 of the instructions)

(A) Name and address	(B) Title and average hours per week devoted to position	(C) Compensation (If not paid, enter -0-)	(D) Contributions to employer's benefit plans & deferred compensation	(E) Expense account and other allowances
DONALD H. SHANK 1474 HALL AVE DURANGO, CO	FOUNDER	-0-		
ROBERT W. SHANK 1861 HARRIET DR CLARKS VILLE	VICE CHAIR	-0-		

75 Did any officer, director, trustee, or key employee receive aggregate compensation of more than \$100,000 from your organization and all related organizations of which more than \$10,000 was provided by the related organizations?  Yes  No  
If "Yes" attach schedule - see page 26 of the instructions

Part VI Other information (See page 27 of the instructions)		Yes	No
76	Did this organization engage in any activity not previously reported to the IRS? If "Yes," attach a detailed description of each activity	76	X
77	Were any changes made in the organizing or governing documents but not reported to the IRS? If "Yes," attach a conformed copy of the changes	77	X
78a	Did the organization have unrelated business gross income of \$1,000 or more during the year covered by this return?	78a	X
b	If "Yes," has it filed a tax return on Form 990-T for this year?	78b	
79	Was there a liquidation, dissolution, termination, or substantial contraction during the year? If "Yes," attach a statement	79	X
80a	Is the organization related (other than by association with a statewide or nationwide organization) through common membership, governing bodies, trustees, officers, etc., to any other exempt or nonexempt organization?	80a	X
b	If "Yes," enter the name of the organization <u>j</u> and check whether it is <input type="checkbox"/> exempt or <input type="checkbox"/> nonexempt		
81a	Enter direct or indirect political expenditures. See line 81 instructions	81a	
b	Did the organization file Form 1120-POL for this year?	81b	X
82a	Did the organization receive donated services or the use of materials, equipment, or facilities at no charge or at substantially less than fair rental value?	82a	X
b	If "Yes," you may indicate the value of these items here. Do not include this amount as revenue in Part I or as an expense in Part II. (See instructions in Part III)	82b	
83a	Did the organization comply with the public inspection requirements for returns and exemption applications?	83a	X
b	Did the organization comply with the disclosure requirements relating to quid pro quo contributions?	83b	X
84a	Did the organization solicit any contributions or gifts that were not tax deductible?	84a	X
b	If "Yes," did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?	84b	
85	501(c)(4), (5), or (6) organizations: a. Were substantially all dues nondeductible by members?	85a	X
b	Did the organization make only in-house lobbying expenditures of \$2,000 or less? If "Yes," was answered to either 85a or 85b, do not complete 85c through 85h below unless the organization received a waiver for proxy tax owed for the prior year	85b	X
c	Dues assessments, and similar amounts from members	85c	
d	Section 162(e) lobbying and political expenditures	85d	
e	Aggregate nondeductible amount of section 6033(e)(1)(A) dues notices	85e	
f	Taxable amount of lobbying and political expenditures (line 85d less 85e)	85f	
g	Does the organization elect to pay the section 6033(e) tax on the amount on line 85f?	85g	X
h	If section 6033(e)(1)(A) dues notices were sent, does the organization agree to add the amount on line 85f to its reasonable estimate of dues allocable to nondeductible lobbying and political expenditures for the following tax year?	85h	X
86	501(c)(7) orgs: Enter a. Initiation fees and capital contributions included on line 12	86a	
b	Gross receipts included on line 12 for public use of club facilities	86b	
87	501(c)(12) orgs: Enter a. Gross income from members or shareholders	87a	
b	Gross income from other sources (Do not net amounts due or paid to other sources against amounts due or received from them.)	87b	
88	At any time during the year, did the organization own a 50% or greater interest in a taxable corporation or partnership or an entity disregarded as separate from the organization under Regulations sections 301.7701-2 and 301.7701-3? If "Yes," complete Part IX	88	X
89a	501(c)(3) organizations: Enter Amount of tax imposed on the organization during the year under section 4911 <u>j</u> section 4912 <u>j</u> section 4955 <u>j</u>		
b	501(c)(3) and 501(c)(4) orgs: Did the organization engage in any section 4958 excess benefit transaction during the year or did it become aware of an excess benefit transaction from a prior year? If "Yes," attach a statement explaining each transaction	89b	X
c	Enter Amount of tax imposed on the organization managers or disqualified persons during the year under sections 4912, 4955, and 4958		
d	Enter Amount of tax on line 89c above, reimbursed by the organization		
90a	List the states with which a copy of this return is filed <u>j</u>		
b	Number of employees employed in the pay period that includes March 12, 2002 (See instructions)	90b	
91	The books are in care of <u>j DONALD SHANK</u> Telephone no <u>j 970-247-9498</u> Located at <u>j 1474 MAIN STREET DOD CO</u> ZIP + 4 <u>j 81301</u>		
92	See 4947(c)(1) for instructions regarding filing Form 990 in lieu of Form 1041 - Check here and enter the amount of tax-exempt interest received or accrued during the tax year <u>j 92</u>		

Part VII Analysis of Income-Producing Activities (See page 31 of the instructions)

Table with 5 main columns: (A) Unrelated business income, (B) Amount, (C) Excluded by section 512, 513, or 514, (D) Amount, (E) Related or exempt business income. Rows include 93 Program service revenue, 94 Membership dues and assessments, 95 Interest on savings and temporary cash investments, 96 Dividends and interest from securities, 97 Net rental income or (loss) from real estate, 98 Net rental income or (loss) from personal property, 99 Other investment income, 100 Gain or (loss) from sales of assets other than inventory, 101 Net income or (loss) from special events, 102 Gross profit or (loss) from sales of inventory, 103 Other revenue, 104 Subtotal, 105 Total.

Note Line 105 plus line 1d, Part I, should equal the amount on line 12, Part I

Part VIII Relationship of Activities to the Accomplishment of Exempt Purposes (See page 32 of the instructions)

Table with 2 columns: Line No, Explain how each activity for which income is reported in column (E) of Part VII contributed importantly to the accomplishment of the organization's exempt purposes (other than by providing funds for such purposes).

Part IX Information Regarding Taxable Subsidiaries and Disregarded Entities (See page 32 of the instructions)

Table with 5 columns: (A) Name, address and EIN of corporation, partnership, or disregarded entity; (B) Percentage of ownership interest; (C) Nature of activities; (D) Total income; (E) End of year assets.

Part X Information Regarding Transfers Associated with Personal Benefit Contracts (See page 33 of the instructions)

- (a) Did the organization during the year receive any funds directly or indirectly to pay premiums on a personal benefit contract?
(b) Did the organization, during the year, pay premiums, directly or indirectly on a personal benefit contract?

Note If "Yes" to (b), file Form 8870 and Form 4720 (see instructions)

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 (Requirement of preparer (other than officer) is based on all information of which preparer has any knowledge)

Please



APR 15 2003 Date



6

# **Trails Among The Columbine**

## *A Colorado High Country Anthology*



**SUNDANCE** PUBLICATIONS *Limited*  
250 Broadway, Denver, Colorado 80203

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Sundance Publications, Ltd., Denver, Colorado

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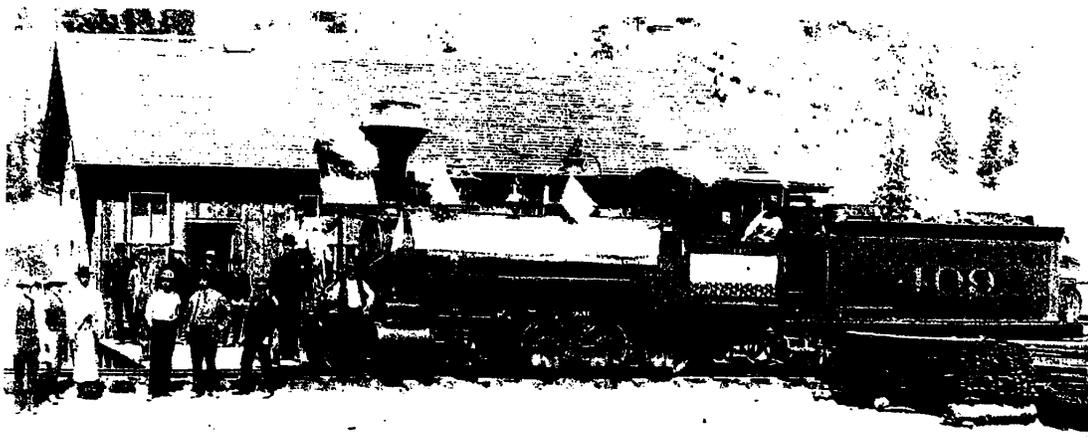
*Editing by – Russ Collman*  
*Production Manager – Dell A. McCoy*  
*Photographic Director – Steven J. Meyers*

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RICHARD A. RONZIO COLLECTION

Engine No. 409 was all decorated for the Fourth of July, 1892, and posed for her picture in front of the South Creede depot (which later became a section house). No. 409 was a Baldwin product of 1881, a Class 70 2-8-0 originally obtained for helper service, and the largest narrow-gauge 2-8-0's built for the D&R.G. Class 70 became Class C-19 in the 1924 reclassification program, but No. 409 was to be sold to the Rio Grande Southern in 1916, to become their No. 41. The engine finally wound up at Knott's Berry Farm in California in 1952.

The Sherman Silver Purchase Act of 1890 had been enacted to stabilize the price of silver. Overproduction of silver by Western states had threatened a collapse in silver prices, which would have been disastrous to thousands of investors, mine owners, miners and other working men – not to mention the effect it would have had on business in general in the West.

Despite warnings from Western lawmakers and businessmen, President Grover Cleveland decided to scrap the Silver Purchase Act. The actual value of a silver dollar was only 56 cents, compared with a gold dollar. To remedy the situation, Eastern financial interests pressured President Cleveland to end "bi-metalism," and go to the single "gold standard." To this end, the President forced Congress to repeal the Sherman Silver Purchase Act. This provided huge profits for a favored few big Eastern banks, but it had a terrible effect on Western silver-producing states.

Of course, the President's action was strongly opposed by Western Congressmen – even by members of his own party – who sympathized with the "free silver" principals of the Populists, who were a strong political force in the West. (Colorado had voted the Populist ticket in 1892, a protest vote against both the Democrats and Republicans.)

Cleveland was severely criticized for allowing his cronies in the New York banking syndicate to make immense profits at the expense of average working Americans. He had sold several bond issues to this syndicate for Government gold in order to build up the nation's gold reserve – and support his ideas about the gold standard. In effect, his repeal of the Silver Purchase Act made several Eastern bankers wealthy overnight while it almost destroyed Colorado's silver-mining industry. The price of silver dropped from almost \$1.00 an ounce in 1892 to 60 cents an ounce by the third quarter of 1893.

Although there was a partial recovery of mining by 1897, a gradual decline of the industry was set in motion, which has continued to this day. Even though Creede had its second biggest year in 1898, it was never the same after the Panic of 1893. And all the other silver camps of Colorado have had similar declines. Only the gold camp of Cripple Creek really boomed after 1893 – and this was short-lived.

Gold, silver, lead and zinc were found in combination in the mines of the Creede district; however, the amounts of gold failed to produce enough income to offset the low price of silver and the other ores. Vast amounts of precious minerals remain locked in the hills above Creede, but the low prices of



WILLIAM H. JACKSON PHOTO - RICHARD A. RONZIO COLLECTION

In a boom town, every minute spent getting into business was money lost — so, no time could be spent in building elaborate structures. In this ca. 1890 view, Doc Watson had set up a tent building to sell refreshments, short-order meals, etc. to Creede miners. Plenty of time to complete the building later. . .

Willow Creek Cañon, and beyond the confluence of East Willow and West Willow creeks was the *original* Creede, which later became North Creede — and was some-times called upper Creede. If that is not confusing enough, Jimtown had the nickname of "Gintown" (for obvious reasons at the time), and it was also called lower Creede!

The D&RG's main depot was at Jimtown (now called Creede), but there were two other depots, a small one at South Creede and a slightly larger one at North Creede (upper Creede). For a time, one could ride the train between North Creede and Jimtown for 10 cents — perhaps as a service for those unfortunate souls who got off the train at the wrong depot!

When all the "flap" came up over David Moffat's problems with the Rio Grande's board of directors, several conflicting stories were circulated. However, it is generally believed that the financial strain of standard-gauging the D&RG's mainline to Salt Lake City caused the board to object to Moffat's plan to

complete the Creede Branch.

Moffat was the principal owner of the Holy Moses Mining Company, and he had other holdings in the Creede district as well. So, it was only natural that he (along with other mine owners) wanted the branch extended from Wagon Wheel Gap up the gulch to North Creede. (The Holy Moses Mine is located above North Creede.) Before the railroad arrived on the scene, all of the mines had to freight their ore down the crude wagon road to the Gap to load shipments aboard the D&RG's narrow-gauge boxcars.

Moffat formed a corporation called the Rio Grande Gunnison Railroad to build the 10-mile line up the cañon from the Gap. The last spike was driven on December 2, 1891, with end o' track in North Creede at Mile Post 321.81 (the distance from Denver), elevation 9,016 feet. The Creede depot — remember, it was first called Jimtown — was opened in 1892, and the fare for the 70-mile round trip up the branch from Alamosa was \$7.20.



R. A. RONZIO COLLECTION

This string of D&RG narrow-gauge boxcars — with a four-wheel caboose — is interesting because good pictures of rolling stock are rare during this period. The photograph was taken during the summer of 1892, shortly after the big Jimtown fire. Ashes and rubble are still evident on all sides.

most minerals prevent economical mining in the district.

The improved business climate of the late 1890's brought about increased activity on the Denver & Rio Grande. Rumors about standard-gauging the line over Veta Pass — and on up to Creede circulated for several months. But nothing had come of it until 1898, when the D&RG surveyed an entirely new route over the Sangre de Cristos, seven or eight miles south of the old narrow-gauge line. The new pass would be called La Veta, the same as the small town at the eastern end of the grade.

Grading for the new standard-gauge line was begun during the early part of 1899, with track-laying completed by October of the same year. Some 27 miles of new trackage was laid, and three tunnels were built, the longest of which was 600 feet. Of course, the main objective of the new line was to get a lower ruling grade, but this was obtained at the expense of having to construct continual curves all the way over the pass. Standard-gauging of the Creede Branch was not completed until 1902, but three-rail track was completed into Del Norte in 1901.

During 1901, with standard-gauging of the branch underway, Creede was very optimistic about a revival of profitable mining activities. In that year construction of a large 200-ton concentrating mill was begun at the confluence of East Willow and West Willow creeks, at the edge of North Creede. Built by the Humphrey Mine & Tunnel Company, the new Humphrey Mill began processing ore in January of

1902. Prior to the construction of this mill, a major drainage tunnel had been holed through from above the mill site to the famous Last Chance Mine. This project was called the Nelson Tunnel, and it was designed to drain the lower levels of the big mines west of Creede, in the Bachelor Mountain area.

The Last Chance, Bachelor, Amethyst and most of the big mines of the district had been shut down during the Panic of 1893, and they had all flooded. The purpose of the Nelson Tunnel was to drain the mines, as well as to provide access from a lower level, without using expensive pumping operations.

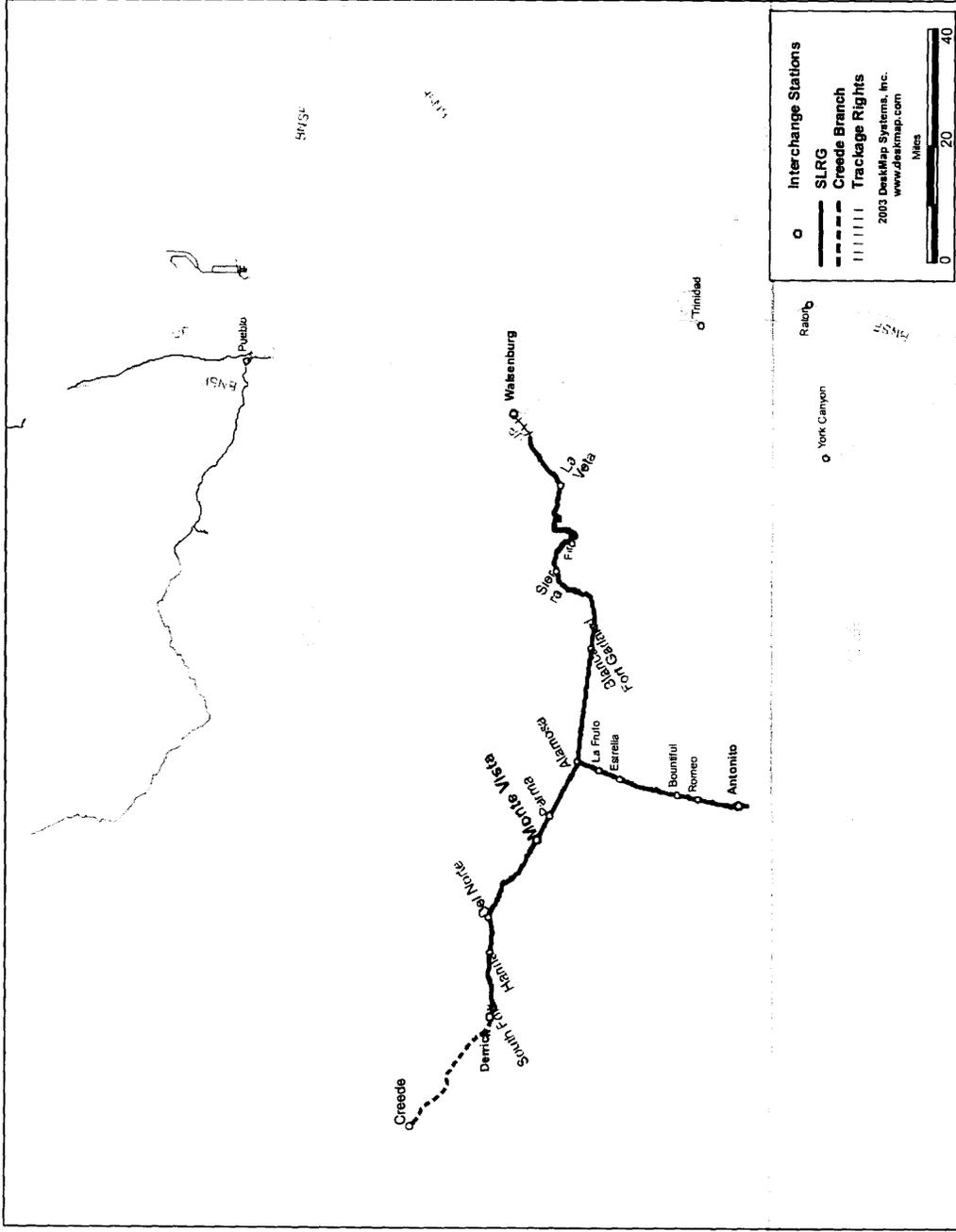
The apparent success of the tunnel project brought about the establishment of the Humphrey Mill and at least two other large mills. One was the Commodore Mill and the other was the Revenue Tunnel Mill.

As a result of the upswing in gold-and-silver production, the D&RG upgraded its service on the branch. The mixed train, which had been put in operation during the 1893 depression, was replaced with a regular daily passenger train. And freight service was improved as well.

Generally speaking, the fortunes of the Creede Branch — and Creede itself — were at the mercy of the "crisis-to-crisis" tendencies of the national economy, which seemed to lock themselves in place after the Panic of 1893. In the long run, the trend of both the branch and the district was *down*. And it has continued in a general downward pattern ever since the "big panic."

The modest Creede upswing at the turn of the

# San Luis Rio Grande (SLRG)



**Interchange Stations**

- 

**SLRG**

**Creede Branch**

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8



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**Dust Control**

Dust control products are applied to aggregate (gravel) roadways when the vehicle traffic account exceeds 150 vehicles per day. These products may be applied when there is a residence within 500 feet of these roadways.

Boulder County Road Maintenance uses two different products for Dust Control.

Magnesium Chloride: is an environmentally-friendly dust control and soil stabilization product. It is hygroscopic (attracts moisture) to provide maximum control of dust. After the road has been prepared for a dust control treatment, magnesium chloride is applied. Each year previously treated roads must be retreated with magnesium chloride and as the roads are retreated dust abatement improves. Magnesium chloride is a great intermediate solution to reducing dust on low volume roads.

Lignin Sulfonate: is a water soluble, non-toxic chemical, otherwise known to most people as "tree sap". Lignosulfonates are left over after the pulping process removes the cellulosic material from the wood. They work best in arid regions or regions where there are substantial periods of "drought".

Either one of these products may occasionally be used for base stabilization on some sections of roadway in Boulder County.



**For more information or to leave a message call 303-441-3962.  
For Road Maintenance related emergencies outside of normal operating hours  
please call 303-441-4444**

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10

**GMCO CORPORATION**

P.O. BOX 1220  
CARBONDALE, CO 81623-

Phone: (970) 863-1110  
Fax: (970) 863-1311  
E-Mail: gmco@rof.net

06/30/2002

Invoice No. 13171

Page: 1

13171

For Job: 02220  
Mineral County

To: Town of Creede

2225 N. Main Street  
Creede, CO 81130-

Purchase Order:

	Quantity	Price	Unit	Amount
Magnesium Chloride 6/18/02	6,155.0000	0.3320	Gal	2,043.46
			Tax:	0.00

12532

Invoice Totals

Gross	2,043.46
Retention	0.00
Tax	0.00
<b>TOTAL DUE</b>	<b>2,043.46</b>

# GMCO CORPORATION

P.O. Box 1220  
 Carbondale, Colorado 81628  
 (970) 963-1110

UNIFORM STRAIGHT BILL OF LADING

Not Negotiable

Shipper's No.

Agent's No.

RECEIVED, subject to the classifications and tariffs in effect on the date of the issue of this Bill of Lading.

at June 18 20 02 from Blake Balcomb / GMCO

the property described below, in apparent good order, except as noted (defective and condition of contents of packages unknown) received, consigned, and declared as indicated below, which said company (the word company being understood throughout this contract as meaning "our person or corporation in possession of the property under the contract) agrees to carry to its usual place of delivery of said destination, if on its own road or by any other line, otherwise to deliver to another carrier on the route to said destination, if it is usually agreed, as to each carrier of all or any of said property over all or any portion of said route to destination, and as to each party of any line interested in all or any of said property that every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, including the conditions on back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

(Mail or street address of consignee - For purposes of notification only)

Consigned to TOWN OF CREEDE

Destination CREEDE State of Colo County of MINERAL

Route High 24

Delivering Carrier GMCO Car Initial DR Car No. 127

No. Packages	Description of Articles, Special Marks, and Exceptions	* Weight (Sub. to Car.)	Class or Rate	Check Column
2055	Gallows ow. Bristol Heights	2055		
2700	Gallows ow. Capitol Av. + Lot 1110	2700		
4100	Gallows ow. Blocks By Grocery	4100		
		655		
		Gallows		

Subject to Section 7 of condition, if this shipment is to be delivered to the consignee without recourse on the consignor, the consignor shall sign the following statement.

The carrier shall not make delivery of this shipment without payment of freight and all other lawful charges.

(Signature of Consignor)

If charges are to be prepaid, write or stamp here, "To be prepaid."

Received \$ \_\_\_\_\_ to apply in prepayment of the charges on the property described hereon.

Agent or Cashier

Per \_\_\_\_\_ (The signature here acknowledges only the amount prepaid.)

Charges Advanced:

\$ \_\_\_\_\_

\* If the shipment moves between two ports by a carrier by water, the law requires that the bill of lading shall state whether it is "carrier's or shipper's weight."  
 NOTE: Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property. The agreed or declared value of the property is here by specifically stated by the shipper to be not exceeding \_\_\_\_\_.

† The bills boxes used for this shipment conform to the specifications set forth in the box maker's certificate thereon, and all other requirements of Uniform Freight Classification.  
 ‡ Shipper's imprint in lieu of stamp; not a part of bill lading approved by the Interstate Commerce Commission.

GMCO Shipper, Per Blake Balcomb Agent, Per \_\_\_\_\_

Permanent post office address of shipper.

(This Bill of Lading is to be signed by the shipper and agent of the carrier issuing same.)

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BOARD OF COUNTY COMMISSIONERS  
Meeting of June 6, 2001

The following minutes are a summary of the proceedings of the Board. A cassette tape of the meeting is available to listen to in the Clerk's office.

The Board of County Commissioners' regular meeting was called to order at 10:00 a.m. June 6, 2001, by Commissioner Flynn Mangum. Those present were Commissioner Flynn Mangum, Commissioner Linda Matthews, Commissioner Carol Drake, County Attorney Charles Cliggett, Administrator Ray Blaum, Road Supervisor Robert Hurd, Sheriff Bill Denison, Planning Commission Chairman Bob Spears, Emergency Services Director Jerry Gray, County Treasurer Kerry Carl, Clerk Linda Ragle and general public.

Superintendent Karen Thormalen and School Board member Jerry Sharpe gave an update on the plans for Hinsdale County RE1 School District's new addition to the school in the Open Forum. The cost of the new addition for the school is 1.6 million dollars. The school has funding of \$200,000.00 and has applied for an Energy Impact Grant in the amount of \$300,000.00. The Bond Issue that will be on the ballot in November will be for the amount of 1.1 million if the school district gets the Energy Impact Grant. It will be for 1.4 million if they do not receive the Grant. The Bond will be for a period of twenty years.

Commissioner Carol Drake motioned to approve May's minutes as written. Commissioner Linda Matthews seconded. Motion carried.

Commissioner Carol Drake attended an Area Agency on Aging Meeting in Montrose, Colorado. There are a lot of questions being asked on how to handle the aging better and Commissioner Carol Drake feels that some real improvements will be made.

Commissioner Linda Matthews attended a Region 10 Meeting in Ouray, Colorado.

Sheriff Bill Denison reported that if the weather stays dry there will be a Fire Ban by the end of the month.

Road Supervisor Robert Hurd reported the Carson Road is now open. The Road and Bridge Dept. will start dust control next Monday in the subdivisions and the upper Lake Fork. Robert is working on an Intergovernmental Agreement with Archuleta County for them to do the mag chloride in the Southend for Hinsdale County and Hinsdale County to do limited snow plowing for them.

Commissioner Flynn Mangum motioned to approve and sign the San Juan Forest Project Agreement for mag chloride in the amount of \$11,042.00. Commissioner Carol Drake seconded. Motion carried.

County Attorney Charles Cliggett gave his monthly report and recommended an executive session after the regularly scheduled meeting concerning Kraus/Kleckner's law suit against the County.

Public Health Nurse Candy Beebe turned in a written report.

Emergency Services Director Jerry Gray reported that there will be an Incident Command System Class held 6:00 p.m. to 10:00 p.m. on June 13, 2001. The EMT's have taught a couple of Wilderness classes that have been well attended.

Administrator Ray Blaum attended a Western Colorado Planners Workshop in Ouray last Friday. Administrator Ray Blaum showed the public a retirement gift for Ann Steinbeck which will be presented to her at a retirement party on June 11, 2001.

Administrator Ray Blaum informed the public that there is now a home visitation program for first time mothers available in Lake City.

Commissioner Linda Matthews motioned to approve and sign a thank you letter to Mr. Lindner for his considerable donation of \$11,500.00 to the Upper Piedra Land Use Planning. Commissioner Carol Drake seconded. Motion carried.

Commissioner Carol Drake motioned to adopt Resolution #7, Series 2001, a resolution recognizing the 125<sup>th</sup> anniversary of the Community Presbyterian Church. Commissioner Linda Matthews seconded. Motion carried.

Commissioner Linda Matthews motioned to approve a corporation change for the Sportsman Supply liquor license in the Southend. Commissioner Carol Drake seconded. Motion carried.

Commissioner Linda Matthews recommended doing a Resolution for the 125<sup>th</sup> anniversary of the Episcopal Church at the next Commissioners' meeting.

Commissioner Flynn Mangum motioned to pay all approved bills. Commissioner Carol Drake seconded. Motion carried.

Meeting adjourned to go into executive session with the Kraus/Kleckner law suit against the County concerning the Upper Piedra Land Use Zoning. The next regularly scheduled meeting of the Board of County Commissioners will be held June 20, 2001 at 10:00 a.m. in the Southend at the Sportsman Supply.

The Board of County Commissioners' regular meeting was called to order at 10:00 a.m. June 20, 2001 by Commissioner Flynn Mangum in the Southend. Those present were Commissioner Flynn Mangum, Commissioner Linda Matthews, Commissioner Carol Drake, Administrator Ray Blaum, Road Supervisor Robert Hurd, Sheriff Bill Denison, County Treasurer Kerry Carl, Clerk Linda Ragle and general public.

Commissioner Carol Drake reported that Ann Steinbeck's 38 years of service retirement party was a great success and wished Ann the best.

Commissioner Linda Matthews reported that she attended the CCI Summer Conference in Vail, Colorado.

Sheriff Bill Denison reported that he and the Archuleta County Sheriff will place a fire ban County wide by July 1, 2001 unless we get sufficient rain before that time. Sheriff Bill Denison attended the Sheriffs' Summer Conference last week.

Sheriff Bill Denison reported that he is still pursuing a Dog Ordinance for the County, dog bites again

are on the rise.

The Sheriffs' from Hinsdale County, Ouray County, and San Juan County are working on an Intergovernmental Agreement for OHV use on the Alpine Loop.

Road Supervisor Robert Hurd reported that 39,000 plus gallons of magnesium chloride have been applied through an agreement with Archuleta County. The agreement with Archuleta County is where they help Hinsdale County with applying magnesium chloride and Hinsdale County will do so many hours of snow plowing for Archuleta County. This will be a year to year agreement.

Robert also has an agreement with Mineral County for 13.1 miles of road in the Southend. The agreement is for Hinsdale County to do limited maintenance on the 13.1 miles for Mineral County and Mineral County will give Hinsdale County the highway users money for that stretch of road. This is also a year to year agreement.

Administrator Ray Blaum reported for the Planning Commission. The Planning Commission reviewed the Monte Queen proposed subdivision, the Ox Yoke will be represented by a professional planner at the next meeting, proposed regulations on County land around Lake San Cristobal, and provided some comments for the proposed Upper Piedra Land Use Regulations.

Administrator Ray Blaum recommended to add the Mineral County Agreement to the agenda under other business, and a State Health and Enforcement Contract.

Commissioner Carol Drake motioned to approve and sign a thank you letter to Zen Construction and Native Sun Construction for volunteer work on the daycare center. Commissioner Linda Matthews seconded. Motion carried.

Discussion followed on Don Craig's request to establish a Memorial Plaque in the Memorial Park to recognize all Hinsdale County residents who have served in the military. He is asking for no money from the County. Commissioners agreed that this is a good idea but would like more information.

Commissioner Carol Drake motioned to approve and sign the Mineral County Agreement to maintain 13.1 miles of road for this year. Commissioner Linda Matthews seconded. Motion carried.

Commissioner Linda Matthews motioned to approve and sign the State contract with the Colorado Dept. of Public Health and Environment. Commissioner Carol Drake seconded. Motion carried.

Commissioner Flynn Mangum motioned to pay all approve bills. Commissioner Linda Matthews seconded. Motion carried.

Meeting adjourned. The next regularly scheduled meeting of the Board of County Commissioners will be held July 11, 2001 at 10:00 a.m. in the Commissioners' Meeting Room.

WARRANTS ALLOWED GENERAL FUND - Meeting of June 6, 2001  
May 25, 2001

31351	CCOERA	retirement	9,126.24
31352	CSECU	savings	1,285.00

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31353	Nationwide Retirement Solution	deferred comp	200.00
31354	Void		0.00
31355	Barbara F. McDonald	payroll	1,379.12
31356	Linda P. Ragle		1,887.44
31357	Flynn J. Mangum		1,223.58
31358	Joan M. Roberts		1,593.36
31359	Raymond J. Blaum		1,594.81
31360	William B. Denison		2,147.48
31361	Richard A. Baumann		1,790.02
31362	Irma Swank Hurd		484.53
31363	Rhonda Gail Dunham		1,467.18
31364	Calvin C. Wall		1,899.42
31365	Merle Ellis Linsey		700.68
31366	Robert R. Hurd		2,321.51
31367	George L. Hurd		1,395.36
31368	Richard D. Hurd		1,662.70
31369	John R. Bebout		1,763.44
31370	James Michael Lesslie		1,794.58
31371	William E. Facker		1,890.93
31372	Amy B. Wilcox		1,875.98
31373	Kerry J. Carl		1,952.96
31374	Curtis Cadwell		180.62
31375	Norman D. Ragle		1,544.59
31376	Michael Rodger Morris		1,893.03
31377	Charlie E. Curtis		332.46
31378	Jerry Gray		1,483.54
31379	Paul G. Olson		138.52
31380	Robert E. Whited		1,901.35
31381	Kim A. Brewer		980.25
31382	William L. Cadwell		1,614.57
31383	Sandra J. Shafer		1,472.72
31384	Donna J. Kelley		1,312.29
31385	Edward L. Owen		1,848.02
31386	Helen F. Brown		649.75
31387	Michael C. Thompson		1,671.13
31388	Dorothy M. Beebe		1,446.77
31389	Jeremiah J. Scheer		1,697.30
31390	Laurie E. Stone		92.35
31391	Linda Matthews		1,392.13
31392	Carol M. Drake		1,437.91
31393	Leonard A. Coniglio		55.41
31394	Brandon L. Thames		1,038.91
31395	Dorothy Beebe	misc. reimbursement	344.40
31396	Ray Blaum	class registration	250.00
31397	Tom Carl	search & rescue reimburse	44.00
31398	Colorado Counties, Inc.	teleconferencing mtg	42.84
31399	Central Distributing	cleaning supplies	226.88
31400	CenturyTel	phone	707.55
31401	Keith Chambers	meals/mileage at conference	324.15

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31402	Leo Coniglio	work at daycare	90.20
31403	Delta-Montrose Area Voca. Tech.	class tuition	357.50
31404	GL Computer Service Inc.	service/equipment	695.95
31405	Gunnison County Finance Office	human services	6,361.44
31406	Trish Harris	meals at conference	100.00
31407	Hinsdale County Clerk	reimburse petty cash	102.50
31408	Hinsdale County Search & Rescue	meals s&r	96.42
31409	Hinsdale EMS	ambulance petty cash	181.20
31410	K.D. Flags	flags	145.88
31411	Lake City Auto	snowmobile rental	360.00
31412	Manairco	ambulance equipment	93.34
31413	Michelle Murphy	meals at conference	100.00
31414	Leslie Nichols	mileage/meals at conference	210.00
31415	Owens & Minor	medical equipment	85.57
31416	Touch America	long distance service	286.57
31417	Wagner Equipment Co.	equipment rental	3,041.00
31418	Mark Wingard	meals at conference	175.00
31419	Jay Wolkov	consulting	200.00
31420	Xerox Corporation	service contract	162.76
31421	Dallas Kent	payroll	369.40
31422	Robert E. Whited	payroll	1,186.28
31423	CCOERA	retirement	143.66
	Total		82,104.43

## WARRANTS ALLOWED GENERAL FUND - Meeting of June 6, 2001 (con't)

June 6, 2001

31424	Town & Country Autoplex	parts & labor	2,254.17
31425	Prorider Inc.	helmets	327.00
31426	Decals, Inc.	sheriff dept	159.53
31427	Upbeat, Inc.	ash trays	330.38
31428	Western Wastewater Tech, Inc.	campground septic tanks	660.00
31429	A-1 Auto Electric Co.	equipment parts	707.91
31430	AFLAC	supplemental insur.	424.92
31431	Amerigas-Gunnison	propane	365.94
31432	Ray Blaum	reimb meals & mileage	545.31
31433	Blue Spruce Building Materials	misc. supplies	127.83
31434	Bound Tree Corporation	medical supplies	128.79
31435	Kerry J. Carl	reimb meals & mileage	175.73
31436	CenturyTel	phone	345.46
31437	CHP	health & life insurance	12,598.05
31438	Cliggett & Associates	services/mileage	2,436.65
31439	Colonial Life Insurance Co.	life insurance	116.95
31440	Colorado Dept. of Revenue	food service license	20.00
31441	Electrical Dynamics, Inc.	day care center work	5,997.02
31442	Four Corners Planning, Inc.	upper piedra planning	2,527.00
31443	Gay Johnson's Inc.	tires	836.36
31444	GL Computer Service Inc.	computer service	515.00
31445	Gunnison County Finance Office	human services	299.00

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31446	Henry Schein	medical supplies	25.19
31447	Hinsdale County Road & Bridge	petty cash	74.97
31448	Honnen Equipment Co.	parts	161.23
31449	La Plata Electric Assn Inc.	electric	167.90
31450	Lake City Area Medical Center	drug test/dot physical	200.00
31451	N.H. Communications Co.	packing for mobile radio	26.35
31452	Napa Auto Parts-Ace Hardware	misc. supplies	556.50
31453	Northern Tool :& Equipment	tarp	74.08
31454	The Paper Clip	signature stamps	75.00
31455	Peak Computer Resource Center	internet service	99.75
31456	B.J. Pyle	lawn care	67.50
31457	Quill Corporation	office supplies	98.02
31458	Silver World Publishing Co.	public notices/ads	235.52
31459	Sweitzer Oil, Inc.	diesel fuel & parts	242.52
31460	Texaco Credit Card Center	gasoline-sheriff	45.35
31461	Utah's Sanitation Service	trash	293.00
31462	Verizon Wireless	cell phone -sheriff	68.37
31463	Wal-Mart Community Brc	equip/supplies-sheriff	165.96
31464	Zep Manufacturing Company	cleaning supplies	342.75
	Total		34,918.96

WARRANTS ALLOWED GENERAL FUND - Meeting of June 6, 2001 (con't)  
June 20, 2001

31465	Business Options	billing service	132.12
31466	Drs. Canfield & Benziger	pathologist fees	770.00
31467	Central Distributing	cleaning supplies	163.87
31468	CenturyTel	phone	995.40
31469	Certified Technicians	professional services	208.00
31470	Colorado Dept. of Revenue	food service license	20.00
31471	Division of Local Government	class registration	70.00
31472	Conoco	gasoline	96.80
31473	Dars Cleaning Supplies	cleaning supplies	212.57
31474	Eagle Computer Systems	computer support	923.00
31475	Void	void	0.00
31476	Forward Edge Inc.	professional services	105.00
31477	Gunnison County Electric Assn.	electric	578.42
31478	Gunnison County Finance Office	landfill fees	2,398.50
31479	Gunnison Family Physicians	professional services	67.00
31480	Gunnison Valley Hospital	medical supplies	903.58
31481	H & H Towing	tow ambulance	141.00
31482	Hinsdale County Clerk	postage	112.74
31483	Hinsdale County Historical Society	membership	50.00
31484	Ikon Western District	copier lease	46.75
31485	KRW Consulting, Inc.	professional services	232.19
31486	Lake City Campground	reimburse transfer station fees	111.00
31487	Lake City Area Medical Center	professional services	20.00
31488	Life-Assist Inc.	medical supplies	173.80
31489	Linda Matthews	reimburse mileage/meals	323.44
32490	Barbara F. McDonald	reimburse mileage	33.00

32491	Mountain View Technical Serv.	mapping of land	20.00
31492	Myers Electronics	repair & check radios	547.50
31493	Napa Auto Parts-Ace Hardware	motor vehicle parts	14.22
31494	Office Machine Sale/Tech Serv.	office machine service	98.96
31495	Old West Business Forms	office supplies	301.19
31496	Oxygen Plus	medical supplies	36.00
31497	Pagosa Auto Care, Inc. Napa	supplies for southend	19.74
31498	Pagosa Springs Sun	publication/legal notice	41.65
31499	Parish Oil Co., Inc.	fuel	4,973.88
31500	Signs by Mike	traffic signs	250.00
31501	Swire Coca Cola USA	vending machine drinks	69.30
31502	John J. Taylor	reimburse mileage	75.90
31503	Tek Supply	other supplies	227.65
31504	Touch America	long distance service	259.47
31505	Town &Country Autoplex	work on 97 dodge	89.68
31506	United Oil Company	southend fuel	972.55
31507	Viking Office Products	office supplies	40.88
31508	Wagner Equipment Co.	hvy equipment parts	1,290.17
31509	Wells Fargo Brokerage Service	equipment lease	49,956.82
31510	Western Wastewater Tech, Inc.	sanitation-wupperman	240.00
31511	Ron Zeller	reimburse mileage/meals	479.50
31512	Elan Financial Services	reimburse misc.	2,005.61
	Total		73,133.77

WARRANTS ALLOWED GENERAL FUND - Meeting of June 6, 2001 (con't)  
June 25, 2001

31513	Town & Country Autoplex	2001 dodge dakota	24,457.00
	Total		24,457.00

\_\_\_\_\_  
Flynn Mangum, Chairman, Board of County Commissioners

ATTEST: \_\_\_\_\_  
Linda Pavich Ragle, Clerk to the Board

BOARD OF COUNTY COMMISSIONERS  
Meeting of June 3, 1998

The following minutes are a summary of the proceedings of the Board. A cassette tape of the meeting is available to listen to in the Clerk's office.

The Board of County Commissioners regular meeting was called to order at the Sportsman Supply in the Southend at 10:00 a.m. by Commissioner Flynn Mangum. Those present were Commissioner Flynn Mangum, Commissioner Claire Jessee, Commissioner James Lewis, Administrator Ray Blaum, County Attorney Charles Cliggett, Road Supervisor Robert Hurd, Sheriff Bill Denison, Assessor Amy Wilcox, Treasurer Kerry Carl, Clerk Linda Ragle and general public.

Commissioner James Lewis attended the regularly scheduled Social Services meeting in Gunnison on May 27, 1998.

Sheriff Bill Denison reported that he has hired a part-time deputy for the Southend, his name is Karn Macht. He will work part-time for Hinsdale County and part-time for Archuleta County.

Attorney Charles Cliggett reported that he is working on street and alley vacation issues with the Assessor's Office.

Attorney Charles Cliggett is also working with Attorney Jim Starr on Dan Plies' proposal on a subdivision in Capitol City.

Road Supervisor Robert Hurd reported that a dust abatement program will be started by June 8, 1998 in the Southend. Six miles of road will be treated. The revenues for this program are funded from the Forest Service and will only continue in future years if the Forest Service supplies the funding.

Commissioner Claire Jessee motioned to approve May's minutes as written. Commissioner James Lewis seconded. Motion carried.

Mr. John Taylor discussed Reserved Water Rights and careful harvesting of the mature forests with the public and the Commissioners.

Mr. John Taylor reported that he, with other concerned citizens, are working on a Land Use Plan for the Southend.

Mr. Rick Kraus stated that he and his wife have purchased 40 acres in the Southend. They intend to put 12 cabins on the property, trees and some horses. Mr. Kraus has volunteered to follow the Hinsdale County building code, although there is no building code for the Southend.

Commissioner James Lewis opened the floor for public discussion on amending Resolution #7, Series 1998, a resolution authorizing the County Clerk and Recorder to combine precincts 2 and 3 into absentee ballot voting for the 1998 Primary Election. The original resolution had read General. The general consensus of the Southend was in favor of combining precincts 2 and 3 into absentee voting for the 1998 Primary Election. Commissioner James Lewis motioned to adopt amended Resolution #7, Series 1998. Commissioner Claire Jessee seconded. Motion carried.

Commissioner James Lewis motioned to sign the stipulation to the Agreement to transfer Ambulance #3

to Camp Redcloud. Commissioner Claire Jessee seconded. Motion carried.

Commissioner James Lewis motioned to approve a Memorandum of Understanding for Maintenance of Effort for State Social Services. Commissioner Claire Jessee seconded. Motion carried.

Discussion followed on increased valuations for property owners and their concerns. Attorney Charles Cliggett explained to the public that Amy doesn't make up the rules, she must follow State rules. Attorney Charles Cliggett advised the Public to write their legislators and complain to them. The Assessor agreed to meet with each concerned property owner after the meeting to go over their valuations.

Discussion followed on Use Tax. Bob Kleckner stated that he bought a vehicle in New Mexico and before registering it in Hinsdale County he went into the Archuleta County Clerk's Office and if he registered it in Archuleta County he would have saved \$1,400.00 some odd dollars. Bob stated that Archuleta County's Sale Tax is 7% like Hinsdale's. County Clerk Linda Ragle stated that she would look into this matter.

Commissioner James Lewis motioned to pay all approved bills. Commissioner Claire Jessee seconded. Motion carried.

Ray stated that he would send addresses, phone numbers, etc. down to each property owner on legislators, OHV registration, etc.

The regular meeting was closed to hold a Public Hearing concerning a Special Events Liquor License for the Friends of the Library.

The regular meeting was reconvened.

Commissioner Claire Jessee motioned to approve a Special Events Liquor License for the Friends of the Library to serve malt, vinous and spirituous liquors on July 11, 1998 at the High Bridge Ranch, 8800 Highway 149 North, Lake City, Co. from 5:30 p.m. until 8:30 p.m. Commissioner James Lewis seconded. Motion carried.

Commissioner Flynn Mangum thanked everyone for coming.

Meeting adjourned.

The Board of County Commissioners regular meeting was called to order at 10:00 a.m. by Commissioner Flynn Mangum. Those present were Commissioner Flynn Mangum, Commissioner Claire Jessee, Commissioner James Lewis, Administrator Ray Blaum, Road Supervisor Robert Hurd, Sheriff Bill Denison, Planning Commission Chairman Bob Sprears, Deputy Clerk Joan Roberts and general public.

Commissioner James Lewis reported on attending the Gunnison/Hinsdale Board of Social Services meeting yesterday afternoon. The bank balance is at about \$20,000.00 which will work to finish out the rest of the year. LEAP is closed out for the year. They will start taking applications again starting in October. The grant contract for the Day Care Center will go out on July 1, 1998, in the amount of about \$14,000.00. A certificate of achievement was received from the state for successful collection from parents who fail to pay child support.

11/1/2004

Commissioner Claire Jessee reported on her attendance at the CCI conference in Crested Butte last week. The opening session was given by Justice Greg Hobbs, of the Colorado Supreme Court, about Colorado water law. The most interesting session was titled "The Advent of the New West".

Sheriff Bill Denison had nothing to report.

Road Supervisor Robert Hurd had nothing to report at this time.

Planning Commission Chairman Bob Spears reported there were three recommendations that came out of their meeting this month. The first recommendation had to do with Jim Milski's proposed property line adjustments, which would be approved upon receipt of final plat. The second recommendation is relating to the Bylaws of the Planning Commission. The changes that need to be made are in reference to appointment of new members and also changes in the requirements for removal after three absences in a twelve month period. The last recommendation relates to the suggested change in zoning on both the Cinnamon Pass Road and Engineer Pass Road. The Planning Commission did not think that extending the RAD 2 zoning up Nellie Creek Road and Old Carson Road should be done. Commissioner James Lewis moved to have the Planning Commission rewrite the Bylaws. Commissioner Claire Jessee seconded. Motion carried.

Administrator Ray Blaum reported on the CCI conference. Mr. Blaum stated there were a lot of interesting topics and speakers.

Administrator Ray Blaum noted that he received a letter of resignation from Camille Richard from the Gunnison Basin Weed Committee. An ad will be placed for the vacancy.

Also, Mr. Blaum presented the commissioners with a map of the Wupperman Campground.

Barry Tollifson from the BLM presented the board with an update on the land exchange between BLM, Lake City Ranches and Perk Vickers. Notice of Exchange Proposal has been in the local paper for the last three weeks. That is a process of informing the public. The premise the BLM is coming from in this exchange is that it needs to be in the public's best interest to do so. The exchange allows the BLM to acquire inholdings in wilderness study areas, which include the Redcloud Peak area and along the Alpine Loop Back Country Byway. The next step is to do the field work and environmental studies. By the end of the year the exchange should be complete.

Dick Cooper addressed the Board concerning the condition of the road and dust control on County Road 30. Mr. Cooper stated that twenty one years ago he went up there and built a campground and twenty one years later he is still dealing with the same type of road. There are lots more businesses up there, probably twenty five times more people going up and down that road. The County keeps issuing building permits and not improving the road to keep up with the traffic. Forest Service cuts should have nothing to do with putting some money into the improvement of the road. Commissioner James Lewis stated that the Forest Service did not inform them of the cut until after the Road Department budget was approved. The Commissioners are looking at ways to get more money into the Road Department. Robert Hurd stated that ten times more money is spent on that area than any other. Mr. Cooper asked that something be done to keep the dust down, as no one will want to be up there and breathe that dust every day. The tourists don't want to bring their trailers up the road because of the washboards and pot holes. Maybe the dust control could be put just in front of the residences and some of the critical areas. Commissioner Flynn Magnum stated they would have a workshop after the meeting to discuss this further.

11/1/2004

The board took a recess at 11:00 am. to attend Marie McCabe and Mel Faber's wedding.

The board reconvened at 11:10 am.

Dave Roberts was next on the agenda to discuss public access. Joan Roberts stated that Dave was done talking and that action needed to be taken on the issue of public access on north Highway 149 where Mr. David Smith was occupying the road. There was a letter sent to Mr. Smith giving him the deadline of June 30, 1998 to have his personal property removed from the public access. Joan Roberts stated that the letter again gave Mr. Smith an out, to meeting the June 30th deadline, by stating that if there were any extenuating circumstances to let Ray know what that would be. Mrs. Roberts asked the Commissioners what they considered an extenuating circumstance in this situation. All of the Commissioners agreed that there would be practically nothing that they could consider an extenuating circumstance at this point and that they are not willing to give much leeway. Administrator Ray Blaum stated that his intent in the letter was that if Mr. Smith had a chance of getting the access permit from the BLM in another week or two we could perhaps give him an extension to get his stuff off of the road without us having to physically go up there and remove it.

Administrator Ray Blaum spoke with the BLM and they stated it would probably be thirty to sixty days before they could approve the permit, provided he meets all the payment requirements. Ray did tell David Smith the deadline in the 30th of June. Ray then stated that on the 30th of June if it's not done then on the 1st of July we are moving it.

Mrs. Roberts informed the Commissioners that they would be asked by the BLM for comments in regards to Mr. Smith's application. She requested that they include the history of what the County has been put through in dealing with Mr. Smith. Mrs. Roberts then asked to be placed on the July 1st agenda for an update on what happened on June 30th.

Mr. Don Campbell approached the board to discuss a property exchange. The area in question is in Wade's Addition on Spruce Street. Mr. Campbell has owned four lots for the last ten years that he would like to improve and sell or build on. Spruce Street encroaches onto these lots by about 1,050 square feet. Mr. Campbell suggested a couple of possible options. The first being to abandon the end of Spruce Street to him. The other option would be for the County to buy the lots from him. Mr. Campbell stated that the road is a total of about 1,400 square feet, so the County would be giving up a total of about 350 square feet. Commissioner Flynn Mangum requested this be turned over to the Planning Commission and then it would have to go to a public hearing. Administrator Ray Blaum stated the property would have to be surveyed also. Mr. Campbell said that his lots were already surveyed and he can find three of the survey pins.

The next item of the agenda was the Hinsdale County Ambulance/EMS Space Rental and Billing and Collection Agreement. Administrator Ray Blaum stated that this agreement was due to the fact that the County has taken over the responsibility for the management of EMS. This will include the continued billing and collecting for medical services provided by the EMS and ambulance. And also to house two ambulances and provide office space above the garage area, along with a training area. The County pays ten percent of the utilities and historically has been charging EMS ten percent for the total space. Commissioner James Lewis asked what the average hours were for billing each month. Administrator Ray Blaum thought it would run about \$4,000.00 per year at \$11.00 per hour. Commissioner Claire Jessee moved to approve the agreement. Commissioner James Lewis seconded. Motion Carried.

The Agreement with Hinsdale County and San Juan National Forest was discussed next. This agreement is for the purpose of applying magnesium chloride to the Piedra Road FDR 631. This project

is to be completed by August 30, 1998. Road and Bridge Supervisor Robert Hurd stated that the project was already completed. Mr. Hurd asked the Commissioners not to sign it as there is a error in the price on the Work Summary for the Magnesium Chloride at \$.30 per gallon. The cost was \$.35 per gallon. Commissioner Flynn Mangum suggested tabling the agreement until the price could be fixed. Commissioner James Lewis moved to table the agreement. Commissioner Claire Jessee seconded. Motion Carried.

Under other business, Commissioner James Lewis moved that the Commissioners cooperate with the Cemetery Board in allowing them a general clean up of the Hinsdale County Cemeteries once a year. That the Commissioners allow them to dump the burnable trash from there for free. Commissioner Claire Jessee seconded. Motion Carried.

Administrator Ray Blaum stated that he received a call from Region 10 regarding the letter sent recommending membership on the board of directors. Commissioner Claire Jessee is the representative and Doug Jones is on the Revolving Loan Committee. Mr. Jones has traditionally also served as a member of the board of directors from the private sector. Mr. Blaum would like to send a letter amending that, to officially include him.

Administrator Ray Blaum discussed the problem with the flag pole in front of the Courthouse. Mr. Blaum stated that Grant Houston told him it was historic, and it has been moved several times over the years. Mr. Blaum proposed getting two new flag poles and design the area to put the Memorial to the war dead in the middle of the two flag poles, with a flag flying on each side, according to protocol. Also, have them facing the street. The prices on flag poles that are tapered fiberglass at 25 feet is \$585.00 each. The Commissioners suggested this be considered in next years budget.

Commissioner James Lewis discussed an article entitled "Paying to Play in Ouray County". The article was about a citizens committee that made recommendations to Ouray County Commissioners about charging to go to Yankee Boy Basin. To put a gate up and charge a \$5.00 fee. They may work with neighboring counties to urge them to do the same on roads leading into the basin from their county. We do not have a road that leads from our county into Yankee Boy Basin. Commissioner Lewis recommended to not even consider a toll charge on our county roads.

Commissioner Flynn Mangum moved to pay all approved bills. Commissioner Claire Jessee seconded. Motion carried.

Commissioner Flynn Mangum presented Robert Hurd with a plaque from the property and casualty company for the Lowest 3 Year Average CAPP Loss Ratio.

Meeting adjourned at 11:40 am. The next regular scheduled meeting of the Board of County Commissioners will be held July 1, 1998 at 10:00 a.m. in the Commissioner's meeting room.

WARRANTS ALLOWED GENERAL FUND - Meeting of June 3, 1998  
May 29, 1998

24795	Void	0.00
24796	Void	0.00
24797	James L. Lewis	647.73
24798	Barbara F. McDonald	1,355.14

11/1/2004

24799	Linda P. Ragle	1,543.38
24800	Flynn J. Mangum	1,097.73
24801	Joan M. Roberts	1,179.94
24802	Raymond J. Blaum	1,408.59
24803	William B. Denison	1,563.13
24804	Richard A. Baumann	1,630.82
24805	Malinda D. McDonald	903.47
24806	Irma Swank Hurd	433.91
24807	Rhonda Gail Dunham	1,275.72
24808	Calvin C. Wall	1,785.64
24809	Ellis Linsey	192.32
24810	Gerald W. Rannells	1,551.12
24811	Hans D. Nelson	576.65
24812	Marie J. McCabe	1,395.73
24813	Robert R. Hurd	1,721.45
24814	George L. Hurd	1,050.70
24815	Richard D. Hurd	1,478.13
24816	John R. Bebout	1,509.77
24817	James Michael Lesslie	1,427.46
24818	Claire F. Jessee	1,140.65
24819	William E. Facker	1,507.01
24820	Amy B. Wilcox	1,510.91
24821	Kerry J. Carl	1,583.38
24822	Curtis Cadwell	339.79
24823	Virgil E. Jordan	184.62
24824	Norman D. Ragle	1,415.12
24825	Royce Allen Iverson	1,770.26
24826	Michael Rodger Morris	1,565.81
24827	Barbara J. Baumann	92.35
24828	Charlie E. Curtis	41.56
24829	Gary D. Alldredge	1,209.60
24830	Karn R. Macht	1,567.74
24831	Dale E. Tucker	1,631.13
24832	Jerry Gray	1,081.65
24833	Co County Off & Emp & Retire As.	4,256.68
24834	CSECU	1,285.00
24835	Blue Cross-Blue Shield of Colorado	11,667.28
24836	NACO	1,405.00
	Total	50,984.07

WARRANTS ALLOWED GENERAL FUND - Meeting of June 3, 1998 (con't)  
June 3, 1998

24837	Irma Swank Hurd	59.39
24838	Amsterdam Printing	238.67
24839	Circle T Lumber	19.82
24840	Masune Company	83.10
24841	Colonial Life Insurance Co.	394.29
24842	Ikon Office Solutions	98.01

11/1/2004

24843	Eagle Computer Systems	72.00
24844	Peak Computer Resource Center	25.00
24845	Office Depot	235.04
24846	Direct Line	262.18
24847	Chief Supply Corporation	280.66
24848	EMS Petty Cash	87.72
24849	Xerox	550.00
24850	Hinsdale County Clerk	153.93
24851	Century Telephone of Colorado	119.66
24852	Blue Spruce Building Materials	28.07
24853	Centurytel	88.42
24854	Montys Auto Parts	101.89
24855	County Sheriffs of Colorado, Inc.	50.00
24856	Visa	1,618.49
24857	Utah's Sanitation Service	207.00
24858	Decals, Inc.	129.38
24859	Pagosa Springs Sun	6.13
24860	Paragon Systems Group	112.38
24861	Myers Electronics	263.75
24862	Kustom Signals, Inc.	186.03
24863	Dyson Oil, Inc.	92.16
24864	Jerry Gray	186.86
24865	Colorado State University	250.00
24866	Delta-Montrose Area Voca. Tech.	100.00
24867	MCI Telecommunications	71.29
	Total	6,171.32

WARRANTS ALLOWED GENERAL FUND - Meeting of June 3, 1998 (Con't)  
June 10, 1998

24868	Hanson Equipment Company	3,000.00
	Total	3,000.00

WARRANTS ALLOWED GENERAL FUND - Meeting of June 3, 1998 (con't)  
June 17, 1998

24869	Rocky Mountain Rose	50.00
24870	Castle Lakes RV Park	390.00
24871	Swire Coca Cola USA	37.40
24872	Amy Wilcox	10.76
24873	Eagle Computer Systems	22,158.00
24874	Office Depot	24.69
24875	Gary Alldredge	88.00
24876	A & M Construction & Excavation	600.00
24877	Ehrhardt, Keefe, Steiner & Hottman	3,627.75
24878	Lake City Area Medical Center	7,000.00
24879	Lake City Auto	24.00
24880	Bob's LP Gas	82.80
24881	La Plata Electric Assn, Inc.	122.54

24882	Gunnison County Finance Office	1,501.50
24883	Pagosa Auto Care, Inc., Napa	54.12
24884	KVS Information Systems, Inc.	134.90
24885	Mountain View Technical Services	2,433.00
24886	Gay Johnson's Inc.	490.74
24887	Ken's Septic Pumping	193.75
24888	Cliggett & Associates	1,828.67
24889	Red Crawfords, Inc.	57.20
24890	Team Laboratory Chemical Corp.	780.07
24891	Kustom Signals, Inc.	2,060.00
24892	James L. Lewis	72.32
24893	Napa Auto Parts-Ace Hardware	27.95
24894	Faris Machinery Company	507.46
24895	Division of Local Government	30.00
24896	Tomichi Tire & Towing Service	278.00
24897	Wall, Smith & Bateman Associates	10,350.00
24898	Chema Tox Laboratory, Inc.	15.00
24899	Ron Zeller	196.55
24900	John J. Taylor	100.90
24901	Claire Jessee	266.30
24902	Kerry J. Carl	314.13
24903	KRW Consulting	1,128.00
24904	Envirotech Services, Inc.	750.00
24905	MCI Telecommunications	79.82
	Total	57,866.32

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Flynn Mangum, Chairman, Board of County Commissioners

ATTEST: \_\_\_\_\_  
Linda Pavich Ragle, Clerk to the Board

11/1/2004

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**NET LIQUIDATION VALUE OF TRACK & BRIDGES**  
**Creede Branch (M.P. 299.30 - M.P. 320.90)**

MAR 11 1999

REC'D URRS-99

M.P.	299.30	TO	320.90	-	21.60	TRACK MILES
M.P.	0.00	TO	0.00	-	0.00	TRACK MILES
				-	1.49	TRACK MILES
					23.09	TOTAL T.M.S

**TRACK COMPONENTS -**

Rail Weight	RAIL		OTM		SWITCHES			Net Tons	NET TONS
	Track Miles	Net Tons	Net Tons	No. 7	No. 8.5 & No. 9	No. 10			
136#		0.00	0.00				0.00	0.00	
133#		0.00	0.00				0.00	0.00	
132#		0.00	0.00				0.00	0.00	
131#		0.00	0.00				0.00	0.00	
118#		0.00	0.00				0.00	0.00	
115#	0.04	8.10	2.45				0.00	10.55	
112#		0.00	0.00				0.00	0.00	
110#		0.00	0.00				0.00	0.00	
100#		0.00	0.00				0.00	0.00	
90#	2.51	397.58	98.14				0.00	495.72	
85#		0.00	0.00				0.00	0.00	
80#		0.00	0.00				0.00	0.00	
65#	20.54	2530.53	592.41		9		21.02	3143.96	
<b>Total:</b>	<b>23.09</b>	<b>2936.21</b>	<b>693.00</b>				<b>21.02</b>	<b>3650.23</b>	

<b>TIES</b>			
SWITCH TIES	477 EA	CURRENT MARKET VALUE	BASE YEAR VALUE
CROSS TIES	62521 EA		
<b>TOTAL TIES</b>	<b>62998 EA</b>		

**VALUE OF TRACK COMPONENTS**

				ORI RATE	VALUE
MAIN & SIDE TRACKS:	318.07 N.T. x	\$109.00 /N.T. =	\$34,669	Reroll Rail 0.994	\$34,461
MAIN & SIDE TRACKS:	2,610.04 N.T. x	\$90.00 /N.T. =	\$234,904	Scrap Rail 0.994	\$233,495
MAIN & SIDE TRACKS:	8.10 N.T. x	\$250.00 /N.T. =	\$2,024	No 2 Qual Rail 0.994	\$2,012
O.T.M. & TURNOUTS:	714.02 N.T. x	\$125.00 /N.T. =	\$89,253	Scrap Material 0.994	\$88,717
SWITCH & CROSS TIES :	0 ea. x	\$6.00 ea. =	\$0	Reusable Ties 0.994	\$0
SWITCH & CROSS TIES :	3,150 ea. x	\$4.00 ea. =	\$12,600	Landscape Ties 0.994	\$12,524
SWITCH & CROSS TIES :	59,848 ea. x	\$0.00 ea. =	\$0	Scrap Ties	\$0

**TOTAL TRACK VALUE**

TOTAL TRACK VALUE	\$373,450		\$371,209
BRIDGE VALUE	\$2,887	0.994	\$2,870
<b>TOTAL VALUE</b>	<b>\$376,337</b>		<b>\$374,079</b>

**REMOVAL COSTS**

TRACK REMOVAL	23.09 T.M.s @	\$7,155 Per Mile	\$165,209	0.99	\$163,557
SWITCH & CROSS TIES	62998 Ea. @	\$1.25 Ea.	\$78,748	0.99	\$77,960
BRIDGE REMOVAL COSTS			\$52,012	0.99	\$51,492
RD CROSSING REMOV	981 Ft. @	\$65.00 Per T.F.	\$63,765	0.99	\$63,127
<b>TOTAL REMOVAL</b>			<b>\$307,721</b>		<b>\$304,644</b>

**NET LIQUIDATION VALUE**

<b>NET LIQUIDATION VALUE</b>	<b>\$68,616</b>		<b>\$69,435</b>
Value of Material Railroad will retain	\$2,024	0.994	\$2,012
Labor associated with Material retained by Railroad	\$129	0.99	\$128

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# *Wagon Wheel Gap Route*

of the

## Denver & Rio Grande Railway

- Home
- Latest News
- Schedule
- Photos 1
- Photos 2
- Maps
- Equipment 1
- Equipment 2
- Archive
- Links
- Membership
- Merchandise
- Video

Exhibit 14-1

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Welcome to the DENVER & RIO GRANDE RAILWAY HISTORICAL FOUNDATION web site. This site covers the re-birth of the both the name and the Wagon Wheel Gap Route section along the upper Rio Grande River. Reconstruction is currently in progress on this 2003 season. Read on to learn about its history and future.

This site is designed to give you an idea of what our Foundation so loves and wants to preserve for future generations. Let's begin with a little history of this very famous railroad-

***WELCOME RETURNING GUESTS-*** *I've added this little section to tell everyone visiting again to still wonder about our site. We update this site almost daily so check out all the new stuff, like our [merchandise](#) section, [photos](#) and [latest news](#). In addition we have added an all new [video](#) section to show you the line from South Fork to Creede.*

In the 1880's, the Denver and Rio Grande Railway was in a building frenzy throughout Colorado. One of the most beautiful areas was on the headwaters of the Rio Grande River at a mountain pass known as Wagon Wheel Gap. Hot springs in this area, as well as the cool summers at its 8,500 foot elevation, made it a perfect resort area for the friends and guests of General William Jackson Palmer, president of the railroad. A rail line was extended to this spot from the end of the line in Del Norte. With mining demands high, the line was extended to the mountain mining town of Creede a few years later. This line was active through 1985 when the last few cars of ore were carried out. The line that carried hundreds of thousands of passengers and millions of dollars worth of silver ore fell quiet.

Roll forward to the Spring of 2000 when the Denver & Rio Grande Historical Foundation, lead by Don Shank, purchased this 21.6 mile line of scenic mountain meadows, rivers and 1,000 foot cliffs. This area is well known for its scenic vistas, historic towns and mines, fishing, hunting and just a wonderful get-away-from-it-all place.

The Line is now being cleaned of brush, small trees and rocks. Ties are being placed where needed. Despite being a volunteer group, spectacular progress has been made. With 9 Work sessions of cleanup, 21.0 miles have been opened with hand tools, a small tractor and a Fairmont Speeder. As of July 20th 2001 the Foundation has opened the line from South Fork to Creede (149 Hwy crossing) for motorcar and maintenance equipment. We are now down to replacing a few pieces of rail and clearing out the Creede yard to have the full line open. This leaves us just less than a mile to go. Tie replacement will begin once track inspectors have a chance to inspect the whole line. We hope this will be completed by the end of the 2002 fall months, thus allowing full sized steam and diesel powered trains open access to all 21.6 miles of the best Standard Gauge Scenic Rail in the West, The Wagon Wheel Gap Route.....

Future plans provide for the return of steam power and a turn of the century look to all right-of-way improvements. Addition of a third rail will return the railroad back to its original configuration at the turn of the century of both Narrow Gauge and

**Standard Gauge, giving the public the only railroad in the US with a three rail set-up.**

**Main Stations will be at South Fork and Creede with full services offered and additional flag stop stations along the way will service fishermen, campers, and hikers on an as-needed basis. The line is also set up as a common carrier line which will allow freight service. Check out the equipment page to see equipment that will be or is already operating on the line and the Latest News section for progress reports.**

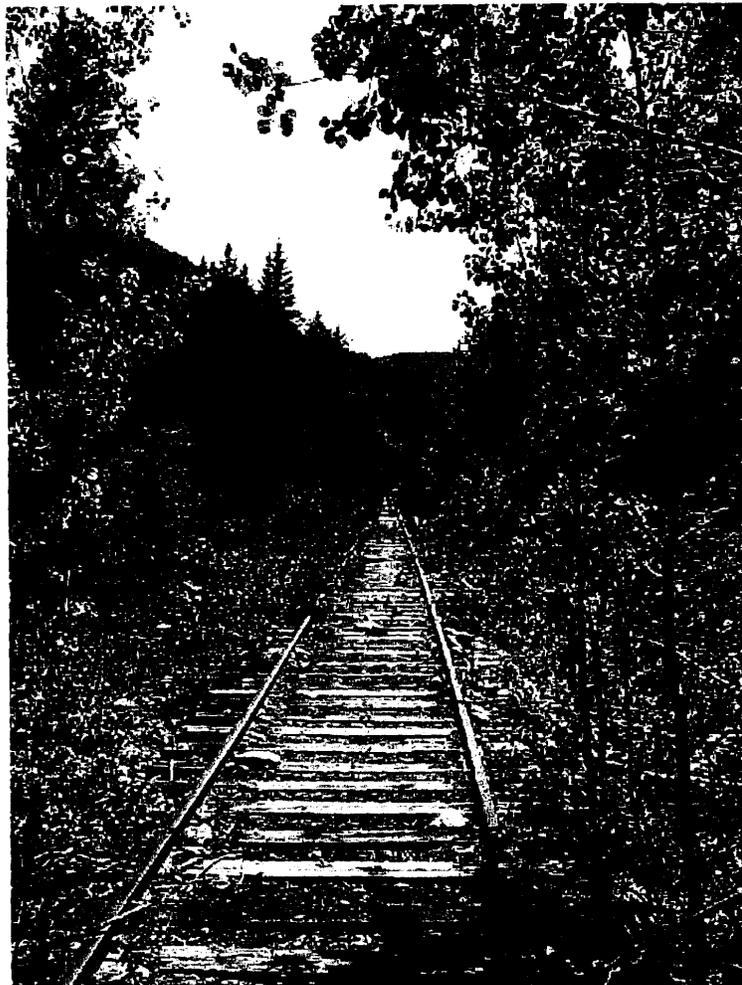
**Join in the fun by lending support with a tax deductible contribution.**

***Contact the Foundation at:***

**[drghf@frontier.net](mailto:drghf@frontier.net)**



Near Wagon Wheel Gap - Old Stage road on other river bank - Rocks on rail line have been removed.



Just one of the isolated stretches through the Aspens



First Piece of Equipment to run here in 15 years.....



Our trail blazing leader Don Shank and fellow worker Matt Cutter continue clearing.....

**See our Photo Page.....**



### **A note about safety on the line....**

We encourage all to lend a hand rebuilding and running this rail line but help must be organized and accomplished under the control of the management of the foundation. Persons showing up and working without notice on the rail line can result in trespass charges and arrest by the local Sheriff. We have organized work days and these are usually listed on this web site. Please contact us first before venturing out on the line.

As to privately owned speeders and other rail equipment: **Not Allowed....** Check for national clubs that organize these meets and have proper insurance coverage. The local Sheriff will impound any and all unauthorized equipment found on the line and cite all trespassing parties.....

[Back to Top](#)

**The D&RGW Site Ring**

This site owned by: [Richard Cutter](#)

[Add Your Site](#)

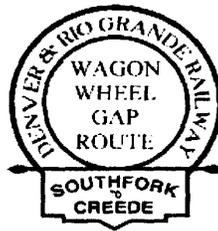


[Next](#) [Previous](#) [List](#) [Random](#)

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***This is not an official web site of the  
D&RG Historical Foundation.***

It is a private site by Richard Cutter who is solely responsible for content and is not submitted to, approved or controlled by the D&RG Historical Foundation.



The name Denver & Rio Grande Railway, Wagon Wheel Gap Route, Creede Branch and associated Logos are owned by the Denver & Rio Grande Railway Inc.

Photos, Videos and Text are Copyrighted by Richard Cutter - Photos can be used for non-commercial use if plainly identified as to copyright holder and Location "at Wagon-Wheel-Gap-Route, D&RG Railway Colorado"

For problems or questions regarding this web site contact [[acefiero@compuserve.com](mailto:acefiero@compuserve.com)].  
Last updated: April 08, 2003.

***[WWW.Wagon-Wheel-Gap-Route.Freehomepage.com](http://www.Wagon-Wheel-Gap-Route.Freehomepage.com)***



## *Wagon Wheel Gap Route*

of the

## **Denver & Rio Grande Railway**

[Home](#)

[Printer-Forms](#)

As any non profit foundation goes, money always is an object and this is also the situation with our Foundation. We need to replace 22.000 railroad ties, finish paying off the railroad purchase, purchase some rail and build a shop facility. Although we are well underway on many things your support would be greatly appreciated.

There are many ways to be part of this railroad. Below you will find a membership form to join the D&RG Historical Foundation, a railroad tie order form to purchase tie(s) along the railroad, the Foundation number if you are interested in corporate or large scale donation or a list of items our Foundation is in need of. Remember this is a non-profit Foundation so all donations are tax deductible.

Exhibit 14-2

[http://www.wagon-wheel-gap-route.freehomepage.com/Donate\\_1.htm](http://www.wagon-wheel-gap-route.freehomepage.com/Donate_1.htm)

11/1/2004

**Please use one of the buttons above to choose the form you desire to use.**

The forms are formatted to be printed on a standard laser printer, format may vary depending on your printers setup. You may need to copy and paste the needed form into your word processor.

Large scale versions follow, as well as listing of needed equipment donations:

**Thank you for your much needed support.**

**Denver & Rio Grande Railway Historical Foundation**

A Colorado Not-For-Profit/Tax-Exempt Corporation

**Membership Application Form**

NAME: \_\_\_\_\_  
\_\_\_\_\_

COMPANY  
NAME: \_\_\_\_\_  
\_\_\_\_\_

ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ - \_\_\_\_\_

PHONE \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ FAX: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

E-MAIL: \_\_\_\_\_

WEB ADDRESS: \_\_\_\_\_

**MEMBERSHIP LEVEL: Please circle the appropriate number of your choice-**

- |                        |            |
|------------------------|------------|
| 1. Individual Annual   | \$25.00    |
| 2. Family Annual       | \$35.00    |
| 3. Contributing Annual | \$50.00    |
| 4. Sustaining Annual   | \$100.00   |
| 5. Lifetime Sponsor    | \$500.00   |
| 6. Patron              | \$1000.00  |
| 7. Benefactor          | \$5,000.00 |

**I would also like to make a additional Tax-Deductible donation towards the following: (circle item(s))-**

Project: Creede Branch Rehabilitation      Project: RGS Coach #252  
Project: D&RG Caboose #0518

Project: South Fork Restoration Facility      Project: Creede Depot  
Project: South Fork Depot and Museum

Project: Maintenance-Of-Way Equipment      Project: Third Rail (n.g.)  
Project: Steam Engine

**In the amount of;**

\$ \_\_\_\_\_  
\_\_\_\_\_

**Please make your Tax-Deductible check payable to:    D&RG  
HISTORICAL FOUNDATION**

**Foundation Office: 1474 Main Avenue, Suite 223, Durango, CO  
81301-5195**

**Phone: 970-259-9498 Fax: 970-259-0202  
Email: drghf@frontier.net**

***WWW.Wagon-Wheel-Gap-Route.Freehomepage.com***

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**• Denver & Rio Grande Railway Historical Foundation**

**A Colorado Not-For-Profit/Tax-Exempt Corporation**

**Railroad Tie Order Form**

NAME: \_\_\_\_\_  
\_\_\_\_\_

COMPANY  
NAME: \_\_\_\_\_  
\_\_\_\_\_

ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ - \_\_\_\_\_

PHONE \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ FAX: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

E-MAIL: \_\_\_\_\_

WEB ADDRESS: \_\_\_\_\_

**RECIPIENTS NAME AND ADDRESS (If same as above, just write same in name blank)**

NAME: \_\_\_\_\_  
\_\_\_\_\_

COMPANY  
NAME: \_\_\_\_\_  
\_\_\_\_\_

ADDRESS: \_\_\_\_\_  
CITY: \_\_\_\_\_

STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ - \_\_\_\_\_

PHONE \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ FAX: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

E-MAIL: \_\_\_\_\_

WEB ADDRESS: \_\_\_\_\_

**Purchase a new replacement tie and help rebuild one of America's Greatest Railroads. Each tie is numbered and the I.D. number will be placed on a Tie Certificate. Once installed, We'll send you the exact location so you can stand on "your" piece of history.**

**Number of tie(s) ordered: \_\_\_\_\_ Or circle the appropriate number of your choice-**

	Non-framed	Framed
<b>1. Individual Tie (1 tie)</b>	<b>\$45.00</b>	
<b>\$70.00</b>		

- 2. Gandy Dancer (10 ties) \$450.00  
\$ Call
- 3. Brakeman (25 ties) \$1125.00  
\$ Call
- 4. Conductor (50 ties) \$2250.00  
\$ Call
- (+ A FREE 10 year Membership)
- 5. Engineer (100 ties) \$4500.00  
\$ Call

(+ A FREE Lifetime Membership, A 200 foot stretch dedicated in your name, A Memorial Plaque, Plus a special surprise)

- 6. Own a Curve (250 or more ties) \$11,250.00+  
\$ Call

(+ A FREE Lifetime Membership, A Curve dedicated in your name, a loved ones name, or a company name, A

Memorial Plaque, A Dedication Ceremony, Plus some very unique special privileges.)

TODAY'S DATE \_\_\_\_\_ - \_\_\_\_\_ -2002 Order Taken

By: \_\_\_\_\_

In multiple tie orders, do you want ties placed in different locations?  
YES \_\_\_\_\_ NO \_\_\_\_\_

Is this purchase a surprise for someone? YES \_\_\_\_\_ NO \_\_\_\_\_

Is this a rush order? YES \_\_\_\_\_ NO \_\_\_\_\_

What date does the tie certificate need to arrive? \_\_\_\_\_ - \_\_\_\_\_ -2000

I would also like to make a additional Tax-Deductible donation towards the following: (circle item(s))-

- Project: Creede Branch Rehabilitation      Project: RGS Coach #252
- Project: D&RG Caboose #0518
- Project: South Fork Restoration Facility      Project: Creede Depot
- Project: South Fork Depot and Museum

**Project: Maintenance-Of-Way Equipment  
Project: Steam Engine**

**Project: Third Rail (n.g.)**

**In the amount of;  
\$ \_\_\_\_\_**

**Please make your Tax-Deductible check payable to: D&RG  
HISTORICAL FOUNDATION**

**Foundation Office: 1474 Main Avenue, Suite 223, Durango, CO  
81301-5195**

**Phone: 970-259-9498 Fax: 970-259-0202  
Email: drqhf@frontier.net**

***WWW.Wagon-Wheel-Gap-Route.Freehomepage.com***

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**Denver & Rio Grande Railway Historical Foundation**

**A Colorado Not-For-Profit/Tax-Exempt Corporation**

**Large Scale or Corporate Sponsor Information**

**If you are a company, know of a company or individual that would be interested in saving a MAJOR part of America's History with a large scale donation to a 501 (c)(3) Tax-Exempt/Not-For Profit Foundation, We would like to hear from you. Please take the time to fill this out and email, mail or call us. THANKS FOR HELPING AID IN THE REBIRTH OF ONE OF AMERICA'S GREATEST RAILROADS.**

NAME: \_\_\_\_\_  
\_\_\_\_\_

COMPANY  
NAME: \_\_\_\_\_  
\_\_\_\_\_

ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_  
\_\_\_\_\_

STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_ - \_\_\_\_\_

PHONE \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ FAX: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_

E-MAIL: \_\_\_\_\_

WEB ADDRESS: \_\_\_\_\_

**Please make your Tax-Deductible check payable to: D&RG  
HISTORICAL FOUNDATION**

**Foundation Office: 1474 Main Avenue, Suite 223, Durango, CO  
81301-5195**

**Phone: 970-259-9498 Fax: 970-259-0202  
Email: [drqhf@frontier.net](mailto:drqhf@frontier.net)**

***WWW.Wagon-Wheel-Gap-Route.Freehomepage.com***

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**Donations of Equipment Needed.....**

**The Foundation is in need of the following:**

1. Bob-Cat - small tractor(s)
2. Tractors - front loaders - back hoe
3. Bush Hogs
4. Spray and fire suppression equipment
5. Shop Equipment - welders, lathes, drill presses, hand tools, etc.....
6. Railroad Equipment - Any style, Any form...

7. Rail car equipment ( speeders ), rail trailers
8. High Rail Equipment
9. Pre-fabricated buildings or building materials

We have limited ability to pick-up this equipment, so figure cost of shipment against value of donated equipment.

If you have these or other equipment you think the Foundation could use, please let us know, it is all tax deductible... Thanks.....



# ***Wagon Wheel Gap Route***

of the

## **Denver & Rio Grande Railway**

Home

**Become part of the rebirth of one of America's Greatest Railroads by purchasing one or more of these items below. By doing so you show you are helping to save a great piece of history.**

**Please make your check payable to:**

**D&RG HISTORICAL FOUNDATION**

Exhibit 14-3

<http://www.wagon-wheel-gap-route.freehomepage.com/merchandise.htm>

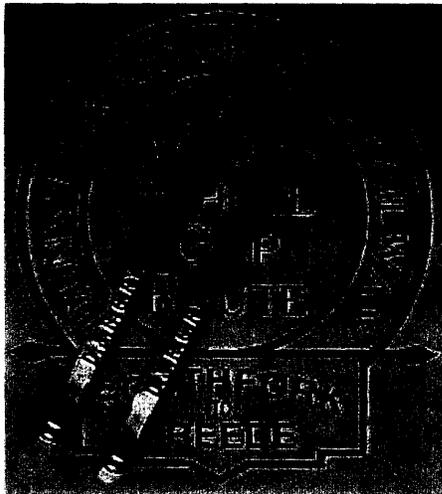
11/1/2004

**Foundation Office: 1474 Main Avenue, Suite 223, Durango, CO  
81301-5195**

**Phone: 970-259-9498 Fax: 970-259-0202**

**Email: drghf@frontier.net**

**\*D&RG RY CAR SEALS-**



Own a BRAND NEW D.&R.G.RY. Car Seal. That's right, these seals are the FIRST seals for the D&RG RY. These 8 1/2" long beauties are the real thing and you can own one from the beginning of this new railroad. They are in limited supply and come consecutively numbered. Starting seal begins with 00001 and goes up from there. ALL of the money from the sale of these seals goes to the Foundation for the railroad's rebuild.

**\$ 5.00 (U.S.) Shipping \$ TBD**

A special thanks goes to Bob Shank Jr. who provided the Foundation a limited quantity of these seals for our railroad. THANKS BOB

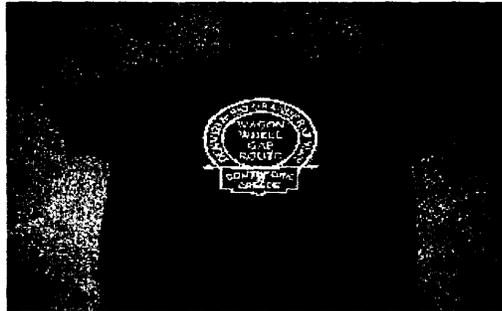
**\*D&RG RY WAGON WHEEL GAP ROUTE COFFEE  
MUG-**



Wake up in the morning to the Wagon Wheel Gap Route Emblem shining bright on your coffee mug. These transparent glass Mugs are etched with our insignia right on them. So be the first on your block and impress all your friends with these beautifully crafted mugs. ALL of the money raised by these cups goes to the Foundation for the railroad's rebuild.

\$10.00 (U.S.) Shipping \$ TBD

**\*D&RG RY WAGON WHEEL GAP ROUTE GOLF SHIRT-**



Surprise everyone with a new piece of history, a D&RG RY shirt. These golf shirts are available in grey or white with bold black print or blue or green with bold white print of the small D&RG RY herald on front and a large Herald on back. ALL of the money from the sale of these shirts goes to the Foundation for the railroad's rebuild.

\$25.00 (U.S.) Shipping \$ TBD

**\*D&RG RY WAGON WHEEL GAP ROUTE JACKET-**

Cover up in the cold this fall and winter with a beautifully embroidered Carhartt

jacket. These jackets are available in black/smoke with a one foot D&RG RY herald in silver on back. For a additional charge your name can be added to the front. This is a custom order item, no refunds. ALL of the money from the sale of these jackets goes to the Foundation for the railroad's rebuild.

\$150.00 (U.S.) Shipping \$ TBD

**\*D&RG RY WAGON WHEEL GAP ROUTE CAP-**



Stay out of the sun and show your support with this beautifully embroidered Cap. These caps are available in silver Denim with a black bill and embroidered with the D&RG RY herald on front in black. ALL of the money from the sale of these caps goes to the Foundation for the railroad's rebuild.

\$20.00 (U.S.) Shipping \$ TBD

**\*D&RG RY WAGON WHEEL GAP ROUTE DECAL-**



Need a window in your train room spiced up???? Want to add some excitement to your car??? You can now have the same decal our work equipment has. This very large laser cut decal measures 12" x 12". Just peel the bottom layer back, adhere to object, peel off the top cover and your part of the D&RG RY. We can make them any

size, just call for pricing. ALL of the money from the sale of these decals goes to the Foundation for the railroad's rebuild.

**\$40.00 (U.S.) Shipping \$ TBD**

A special thanks goes to Richard Cutter who's working on this project for the Foundation. THANKS RICHARD

### **\*D&RG RY TIE CERTIFICATE-**

Own a BRAND NEW D.&R.G.RY. Tie. That's right, you can add your support by purchasing a tie on the actual railroad line. This support program has been growing like crazy, so don't be the last one to join in. A "Tie Certificate" is issued to the lucky purchaser or recipient with an I.D. number on the certificate. Each new tie will receive an I.D. tag that coincides with the number on the cert. After the tie's installation, the exact location will be forwarded to you. These Certificates are great for birthdays, anniversaries or any other special times of the year. So buy your Dad a tie that won't be left in the closet this year!!!

**\$45.00 Non-framed / \$70.00 Framed (U.S.) Shipping \$ TBD**

### **\*THE SAN JUAN PRINT-**



A great addition to any home is this 17 x 23 inch Lithograph by John Ellingson. It comes hand signed and numbered by the artist. This beautiful painting depicts Engine #473 preparing to depart the Durango terminal with the San Juan cars behind.

**\$75.00 (U.S.) Shipping \$ FREE**

A special thanks goes to John Ellingson who donated a limited number of these first edition prints. THANKS JOHN

**Please let us know your desires**

**Please make your check payable to:**

**D&RG HISTORICAL FOUNDATION**  
**Foundation Office: 1474 Main Avenue, Suite 223, Durango, CO**  
**81301-5195**  
**Phone: 970-259-9498 Fax: 970-259-0202**  
**Email: drghf@frontier.net**

***This is not an official web site of the***  
***D&RG Historical Foundation.***

**It is a private site by Richard Cutter who is solely responsible for content  
and is not submitted to, approved or controlled by the D&RG Historical  
Foundation.**



The name Denver & Rio Grande Railway, Wagon Wheel Gap Route, Creede Branch and associated Logos are are owned by the Denver & Rio Grande Railway Inc.

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For problems or questions regarding this web site contact [ [acefiero@compuserve.com](mailto:acefiero@compuserve.com) ].  
Last updated: April 08, 2003.

***WWW.Wagon-Wheel-Gap-Route.Freehomepage.com***



**First Crew To Clear Tracks**

**L to R - Matt Cutter - Don Shank - Rich Mallard - Rob Gram - Roger Cutter**

**- Not Shown - Mark Cutter - Rich Cutter**

Exhibit 14-4

15

COMPARISON OF CONTRIBUTIONS CLAIMED  
BY DONALD SHANK IN STB VERIFIED STATEMENT WITH  
CONTRIBUTIONS REPORTED ON FEDERAL TAX RETURNS

	1999	2000	2001	2002	TOTAL
Contributions Claimed To Be Made By Donald Shank <sup>1</sup>	\$265,479	\$100,000	\$72,545	\$68,004	\$506,028
Contributions Shown On D&RGHF Form 990 (Part 1, Line 1)	\$202,464 <sup>2</sup>	\$0	\$2,600	\$0	\$205,064

<sup>1</sup> Appdx. DHS-3 to Verified Statement of Donald H. Shank (dated Jan. 15, 2004).

<sup>2</sup> The Form 990 for 1999 showed total contributions of \$452,464. Concerned Citizens has backed out the \$250,000 contribution received in 1999 from the Japanese donor, because that amount was not attributable to Mr. Shank. Even if all of the remaining contributions are attributed to Mr. Shank, they fall far short of the \$506,028 in contributions he claims to this Board.

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**Blanz, Laurie**

**From:** Donald Shank [drghf@frontier.net]  
**Date:** Tuesday, September 24, 2002 12:05 PM  
**To:** Blanz, Laurie  
**Subject:** Re: Denver & Rio Grande Railway Historical Foundation enhancement application

Hi Laurie,

Per conversations with Terry Whelan, Town Manager of South Fork and our atty, DRGHF is hereby withdrawing from the CDOT Enhancement Program. The demands placed upon us are simply unrealistic. Case-in-point, The final requirement from Tom Norton for a letter of credit sufficient to cover rehab, equipment, maintenance and operation. If we had that we wouldn't need enhancement funds, would we? Additionally, South Fork cannot provide a resolution stating they accept responsibility for the long-term operation of the facility (railroad). That is unrealistic.

In view of these demands, DRGHF formally withdraws its applications. Thank you Laurie. I am sure you more than understand.

Don Shank  
Executive Director, DRGHF

Blanz, Laurie writes:

- > Don,
- >
- > This is a followup to the SLV Regional Planning Commission meeting that was held on August 27th and our phone conversation yesterday. Please provide the following information to me by Oct. 14th, so I have time to review it before the next RPC meeting on Oct. 21st for the selection and prioritization of projects:
- >
- > \* The applications must be sponsored by a governmental entity.
- > \* Provide more detailed descriptions of the individual projects.
- > \* State the enhancement activity under which each proposed project is eligible.
- > \* Provide the status of your efforts to list the railroad on the National Register of Historic Places.
- > \* Provide revised, reasonable funding requests, taking into consideration the limited Region 5 enhancement funding.
- > \* Provide detailed cost estimates.
- > \* Provide an implementation schedule for the proposed projects, as well as the start date of railroad operation.
- > \* Provide a statement that the local agency will provide all required environmental clearances.
- > \* Attach a resolution of support from the Town of South Fork: 1) attesting to their lead role in the project, and 2) a statement that they are responsible for the long-term operation of the facility.
- Provide letters of support from Creede.
- Attachment I says the railroad property belongs to Union Pacific Railroad. State whether or not this is correct and provide the name of the owner, if Attachment I is incorrect.
- > \* Provide a letter of credit or bond, subject to the approval by CDOT, sufficient to cover the costs of

410  
G

track/structure rehabilitation, rolling stock, and maintenance and operation of the facilities, as required by Tom Norton in his letter to you dated August 23, 2002.

>  
> Thank you and please call me at (970)385-1435 with any questions,  
> Laurie

>

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**KEN SALAZAR**  
Attorney General  
**BARBARA McDONNELL**  
Chief Deputy Attorney General

**ALAN J. GILBERT**  
Solicitor General

**STATE OF COLORADO**  
**DEPARTMENT OF LAW**  
OFFICE OF THE ATTORNEY GENERAL

**STATE SERVICES BUILDING**  
1525 Sherman Street - 5th Floor  
Denver, Colorado 80203  
Phone (303) 866-4500  
FAX (303) 866-3691

June 21, 2000

Via Facsimile & U.S. Mail  
(970) 259-0202

Don Shank  
Denver & Rio Grande Railway  
Historical Foundation  
1474 Main Avenue, Suite 223  
Durango, CO 81301

RE: Creede R.O.W. Leases

Dear Don:

I received your faxed correspondence dated June 8 and 9, 2000 concerning the four leases on the Creede right-of-way (R.O.W. 1757, issued October 24, 1969). Based upon this correspondence and our recent telephone conversation, I believe there may be some misunderstanding as to the rights and obligations of the Historical Foundation and the Land Board with respect to the right-of-way. I would like to take this opportunity to clarify the Land Board's position with respect to these issues.

Initially, I want to emphasize that pursuant to paragraph 2 of the right-of-way, the grant is for the sole purpose of "constructing, reconstructing, operating and maintaining a railroad and appurtenances . . ." Additional non-railroad uses of the property by the Historical Foundation, without Land Board consent, will not be tolerated.

I also want to point out that the rights of the parties to sublease of any portion of the section 36 right-of-way are governed by the 1969 right-of-way document. This principle was reiterated in paragraph 4 of the May 18, 2000 letter agreement the Land Board entered into with Union Pacific and holds true for all leases, including any that may pre-date the issuance of the 1969 right-of-way.

With respect to subleasing, upon proper notice to the Land Board, the Historical Foundation may sublet portions of the right-of-way not used for its railroad operations to the railroad's "customers" or for other uses "compatible with railroad business or operations." What uses are considered to be "compatible with railroad business or operations" is not defined. In

Don Shank  
June 21, 2000  
Page 2

addition, the Land Board must be notified of any railroad-related leases within 60 days of this letter or the date of issuance.

However, in that same paragraph (¶14), the right-of-way agreement specifically prohibits the Historical Foundation from subletting or permitting the use of portions of the right-of-way for purposes "not connected" with the railroad's operations or business without the written consent of the Land Board. As such, it would appear that notice is required for railroad-related leases, while written consent is required for non-railroad related leases.

In addition, paragraph 12 of the right-of-way specifically reserves to the Land Board the right to use, sell or otherwise dispose of any portion of the right-of-way, except as necessarily limited by the railroad "facilities." As such, subject to your right-of-way, the Land Board may sell, lease or otherwise dispose of the land in any manner to the extent that it does not interfere with railroad operations.

With respect to the current four leases, since none of these leases appear to be connected with railroad business or operations, the Land Board's consent was to be obtained for those leases. As you know, this consent was never obtained. Accordingly, the Land Board will insist that the Historical Foundation terminate all non-railroad leases immediately. Upon review, the Land Board may re-issue some or all of these leases, or grant a temporary right-of-entry to these parties. Any such lease or temporary right-of-entry will be subject to the terms and conditions of the right-of-way.

As I indicated to you recently, the Land Board is under a duty to control its trust assets and to obtain revenue from the right-of-way property. Even with your purported assignment of rental payments, these objectives are not adequately met. The Land Board believes that it should issue and control any non-railroad leases.

Please contact me if you have any questions concerning this letter or if the Historical Foundation will not agree to terminate the non-railroad leases and/or give notice of any leases for railroad purposes.

Sincerely,

FOR THE ATTORNEY GENERAL



M. PATRICK WILSON  
Assistant Attorney General  
Natural Resources and Environment Section  
(303) 866-5127  
(303) 866-3558 (FAX)

**DENVER & RIO GRANDE RAILWAY  
HISTORICAL FOUNDATION**

A COLORADO NOT-FOR-PROFIT/TAX-EXEMPT CORPORATION

June 29, 2000

SENT CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mineral County Board of County Commissioners  
144 Creede  
Creede, CO 81130

Re: Right-of-way Lease No. 14860

Dear Mineral County Board of County Commissioners:

On May 24, 2000, the purchase transaction referenced as STB Docket No. AB-33 (Sub No. 132X) was consummated by and between the Union Pacific Railroad Company (UPRR), as successor to the D&RGW/SP, as SELLER, and the Denver & Rio Grande Railway Historical Foundation (DRGHF), as BUYER.

The Denver & Rio Grande Railway Historical Foundation (DRGHF) received a letter from the Colorado Attorney General, M. Patrick Wilson, Ass't. A. G., dated June 21, 2000. This letter, already in your possession, contains information clarifying the rights and obligations of the DRGHF.

Per the insistence of the Colorado State Land Board through the Colorado Attorney General's Office, we have been instructed to terminate all non-railroad leases immediately. By virtue of this demand, DRGHF will comply and hereby terminate said lease per the terms and conditions of Lease No. 14860, a copy of which is attached herewith and accompanied by the Assignment and Assumption Agreement between UPRR, "assignor", and DRGHF, "assignee", and "successor" in title to the UPRR.

THEREFORE, this letter will serve as NOTICE OF TERMINATION per the demand of the CSLB/AGO, effective thirty (30) days from the date received. Per the terms of Lease No. 14860, the Mineral County Board of County Commissioners, "Lessee", is hereby notified by the Denver & Rio Grande Railway Historical Foundation, "Lessor", that the aforementioned lease is TERMINATED, per terms and conditions defined in Section 19 of your lease. Additionally, please read Section 22, Vacation of Premises, and Section 4, Improvements, for important pertinent information regarding your departure from the subject property.

The existence of a "current" status regarding your rent is not known to Lessor at this time. In the event that a refund for any portion of rent is due the Mineral County Board of County Commissioners, please contact M. Patrick Wilson, Ass't. Attorney General, State of Colorado, at the address already in your possession, for a pro-rata refund.

Thank you in advance for your prompt and courteous compliance with the termination of your lease.

Foundation Office: 1474 Main Avenue, Suite 225, Durango, CO 81301-5195  
Tel: 970-259-9498 Fax: 259-0202 Email: drghf@frontier.net

Sincerely,



Donald Shank  
President  
DRGHF

Enclosure

Lease No. 14860, dated 10 April 1961  
Letter extension to Lease 14860 dated April 6, 1973  
Rental increase letter dated March 15, 1973  
Rental increase letter dated February 19, 1993  
Assignment and Assumption Agreement dated May 24, 2000 between UPRR and  
DRGHF

Cc:

M. Patrick Wilson, Ass't. A.G., State of Colorado  
Charles Bedford, CSLB  
Bob Opal, General Commerce Counsel, UPRR  
Tom McFarland, Attorney-At-Law,  
McFarland and Herman, DRGHF retained counsel

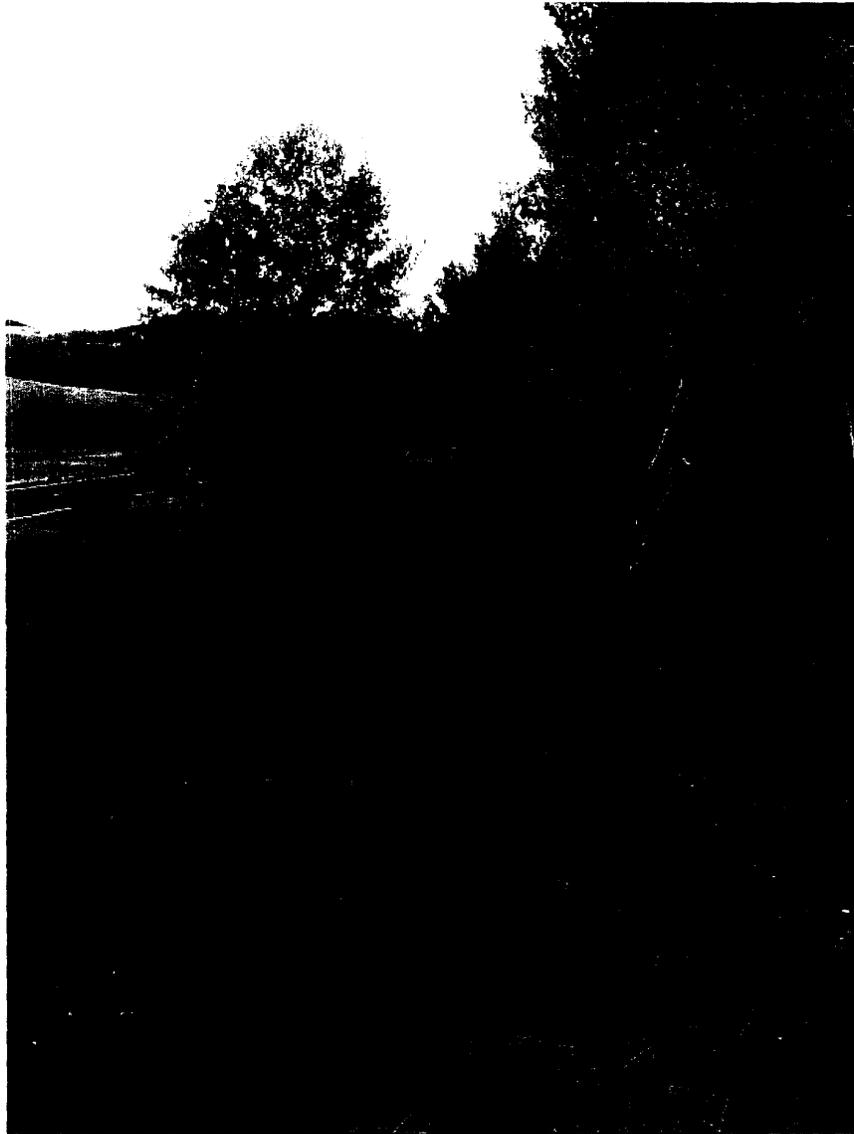
18



Trees crowd right-of-way  
Vegetation growing between ties/tracks

Date Picture Taken First Week of October, 2004  
Location: Along Right-of-way at Mile Marker 17

Exhibit 18-1



Trees crowd right-of-way  
Vegetation growing between ties/tracks

Date Picture Taken First Week of October, 2004  
Location: Along Right-of-way at Mile Marker 17

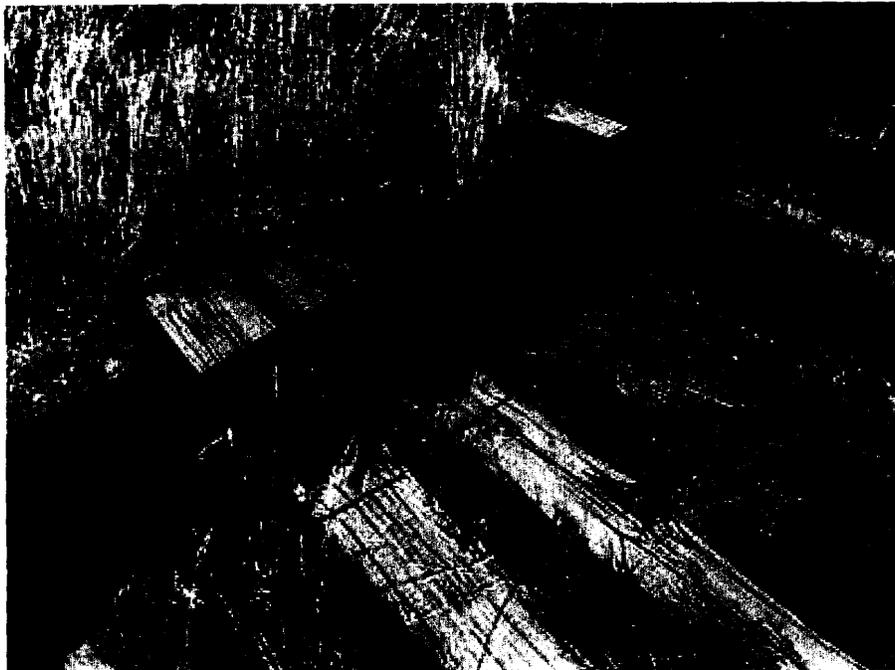
Exhibit 18-2



No Ballast

Date Picture Taken First Week of October, 2004  
Location: Along Right-of-way at Mile Marker 3

Exhibit 18-3



No Ballast

Date Picture Taken First Week of October, 2004  
Location: Along Right-of-way at Mile Marker 3

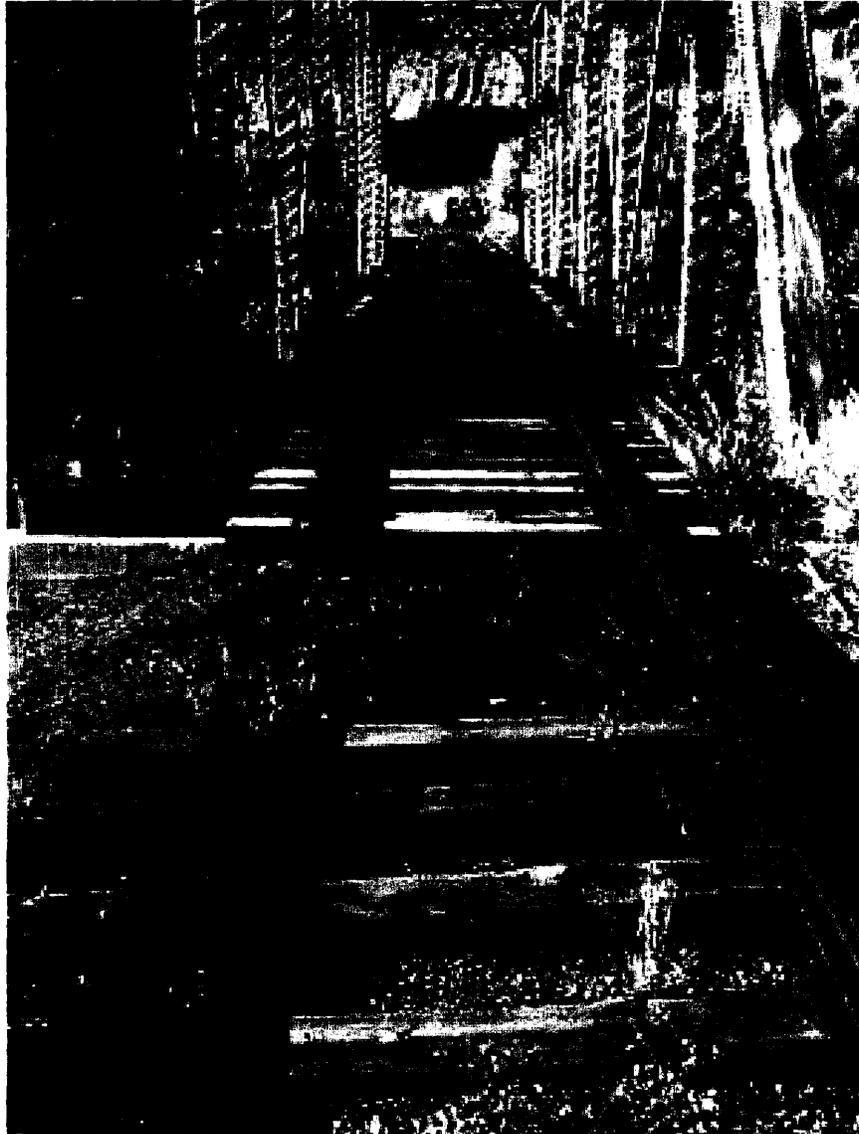
Exhibit 18-4



No Ballast

Date Picture Taken First Week of October, 2004  
Location: Along Right-of-way at Mile Marker 3

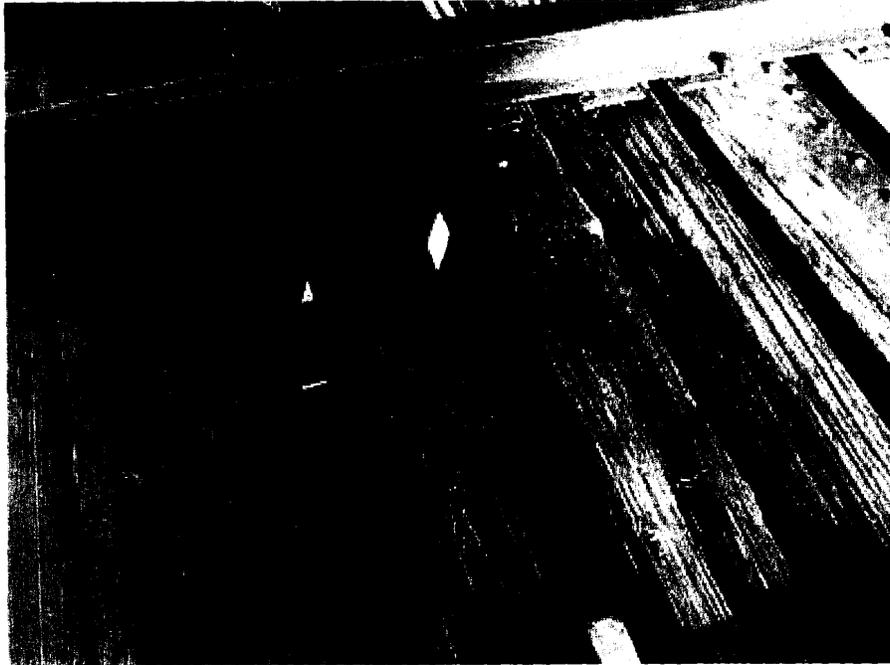
Exhibit 18-5



Missing Ties

Date Picture Taken First Week of October, 2004  
Location: Approach to Steel Bridge over Rio Grande River

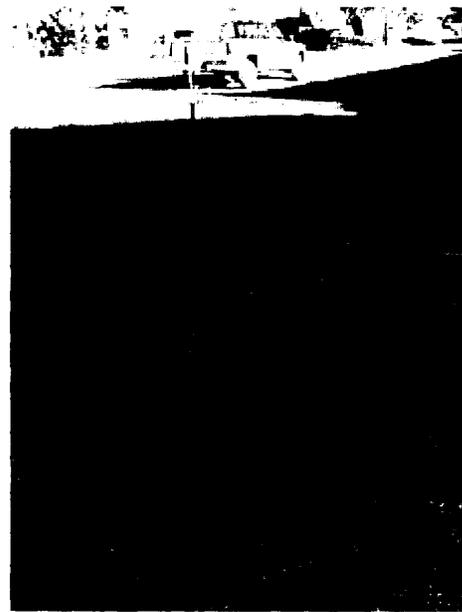
Exhibit 18-6



Rotting ties and missing spikes

Date Picture Taken Second Week of October, 2004  
Location: Steel Bridge over Rio Grande River

Exhibit 18-7



Rotting Ties

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

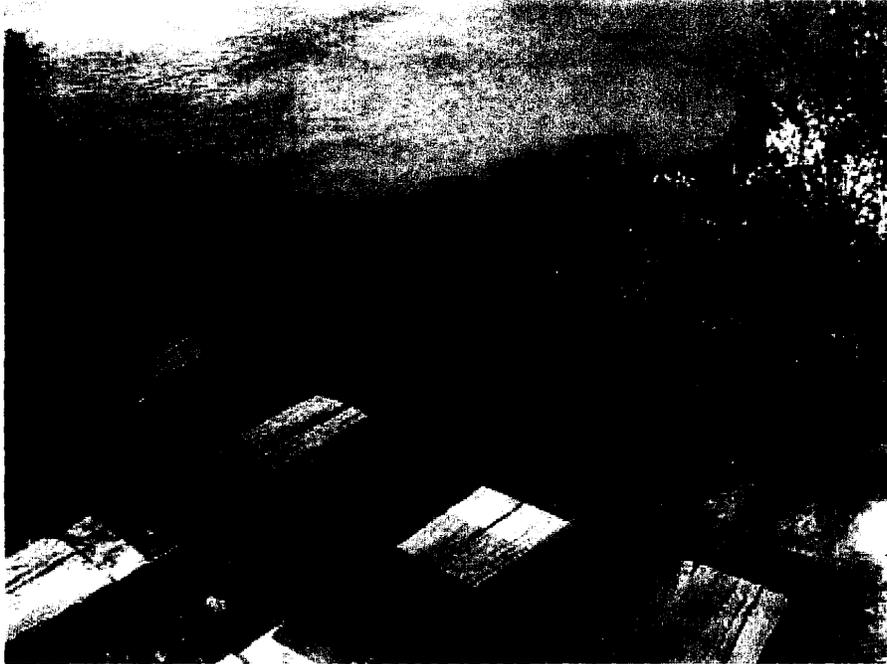
Exhibit 18-8



Roadway eroded along banks of Rio Grande River  
(Located to the lower left of picture)

Date Picture Taken First Week of October, 2004  
Location: Along Rio Grande River

Exhibit 18-9



Roadway eroded along banks of Rio Grande River

Date Picture Taken First Week of October, 2004  
Location: Along Rio Grande River

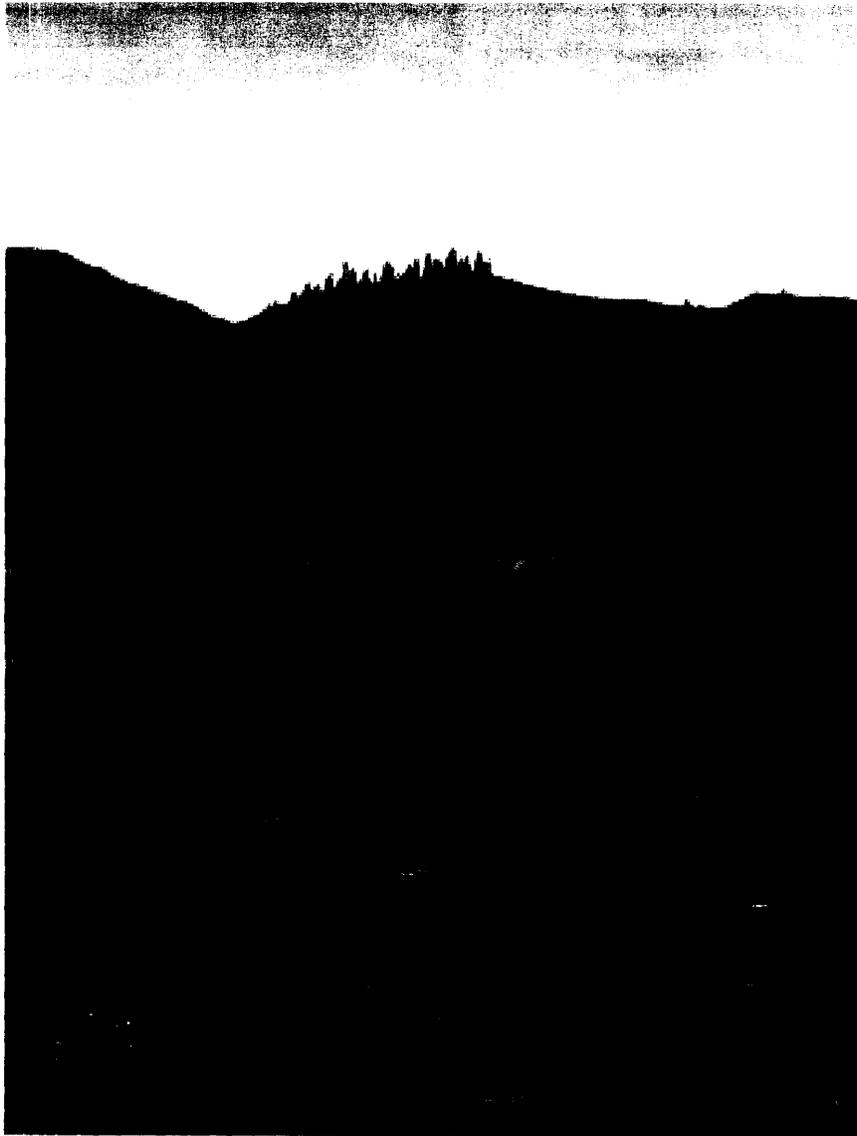
Exhibit 18-10



Ballast and subroad bed gone

Date Picture Taken First Week of October, 2004  
Location: Colorado Highway 149 several miles east of Creede, CO

Exhibit 18-11



Grade Crossing paved over by Colorado DOT

Date Picture Taken First Week of October, 2004  
Location: Colorado Highway 149 several miles east of Creede, CO

Exhibit 18-12



Vegetation growing over tracks; tracks buried  
Dirt covering ties

Date Picture Taken Second Week of October, 2004  
Location: Facing track as it comes into Creede, CO

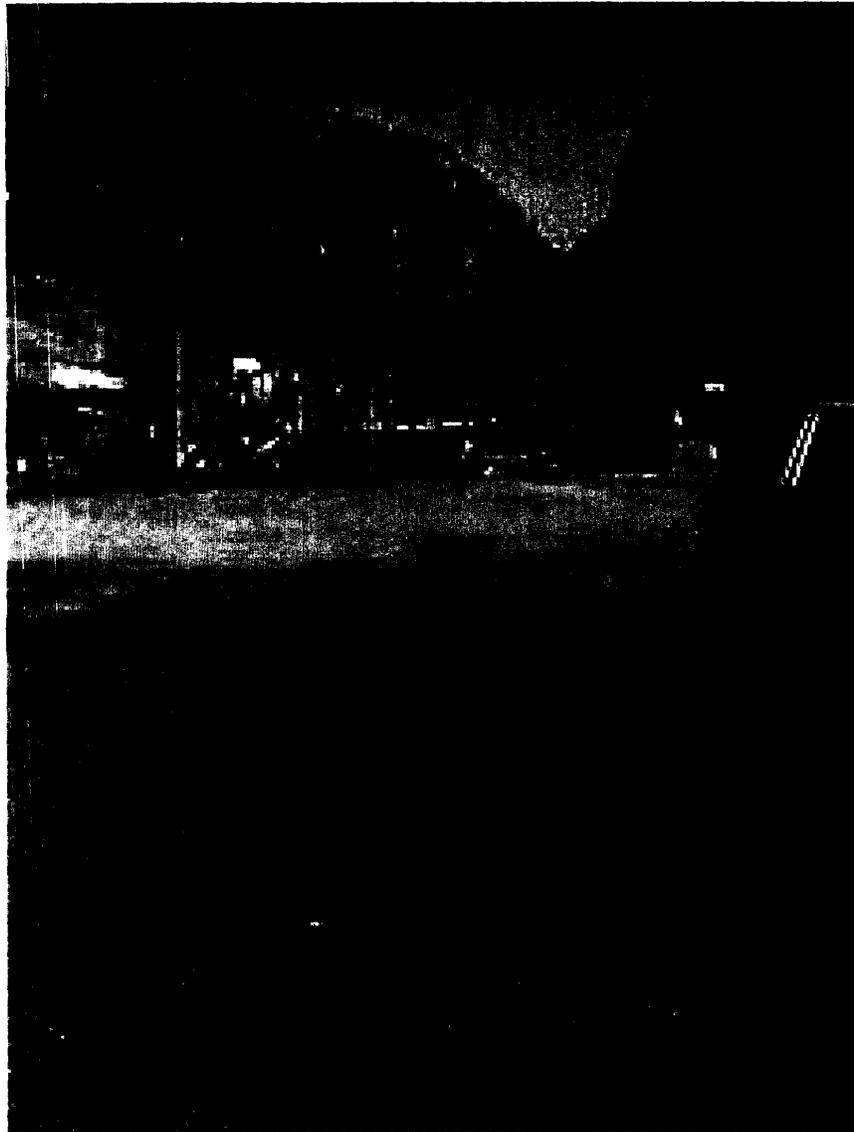
Exhibit 18-13



Can you find the track in this picture?  
*Hint: It is to the right of the road*

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

Exhibit 18-14



Can you find "The Four-Track Yard" in this picture?  
Yes, that is a children's playground in the "rail yard"

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

Exhibit 18-15



Can you find "The 4-Track Yard" in this picture?

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

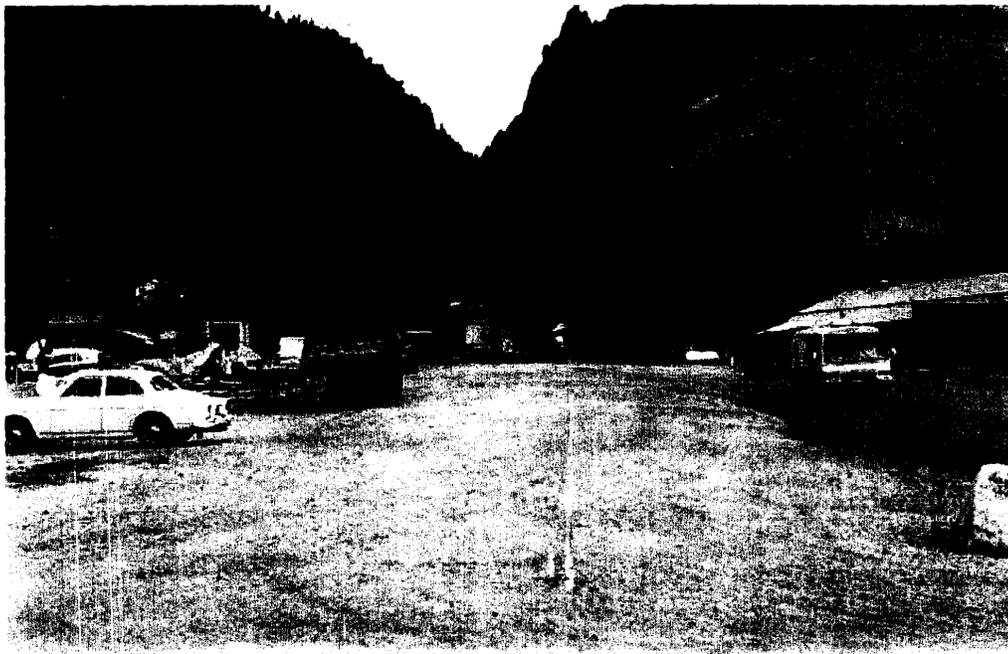
Exhibit 18-16



The park is in "The 4-Track Yard" mentioned by D&RGHF

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

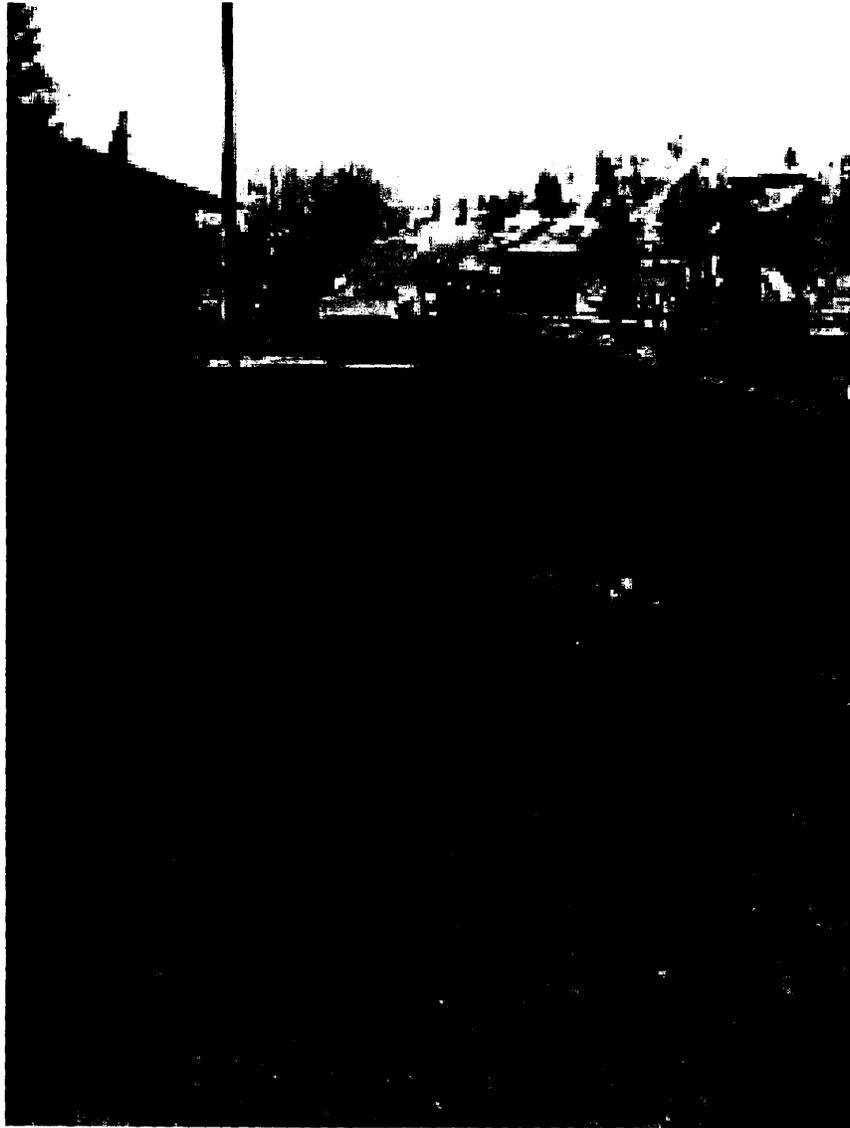
Exhibit 18-17



The parking area is also located in "The 4-Track Yard"

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

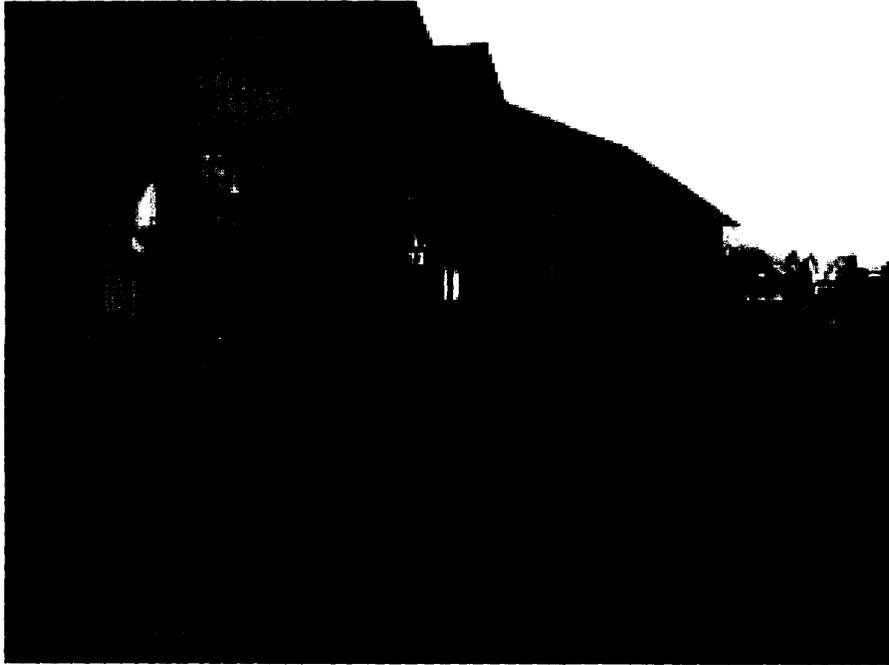
Exhibit 18-18



Buried Track East of Depot

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

Exhibit 18-19



Creede Depot  
Operated by Creed Historical Society

Date Picture Taken Second Week of October, 2004  
Location: Creede, CO

Exhibit 18-20

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THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY  
THE DIRECT CENTRAL TRANSCONTINENTAL ROUTE

M. JENSEN  
TRAFFIC MANAGER  
H. BROWN  
J. MARTIN  
1ST. FREIGHT & PASSENGER AGENTS  
E. CASH  
GENERAL AGENT  
ALAMOSA, COLORADO

PUEBLO, COLORADO  
ROOM 12  
UNION DEPOT  
TELEPHONE LINCOLN 2-2374

Alamosa, Colorado  
June 21, 1961

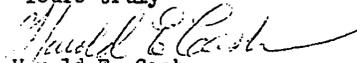
Board of County Commissioners  
Mineral County  
Creede, Colorado

Dear Sirs:

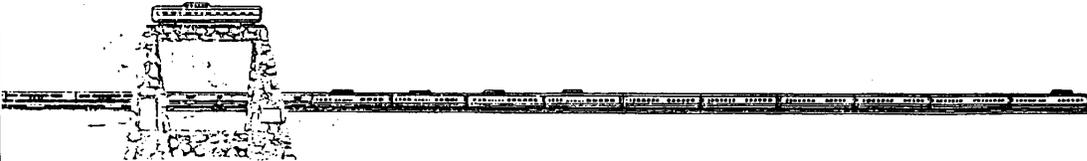
Please find enclosed for your permanent file and record fully executed copy of lease No. 14860 between the railroad company and Mineral County covering railroad ground at Creede on which is located the depot building that you purchased from the railroad.

We wish you much success in this project.

Yours truly

  
Harold E. Cash  
General Agent

MONUMENT TO AN IDEA



BIRTHPLACE OF THE VISTA-DOMES

# LEASE

Lease No. 14860

THIS LEASE, Made and entered into this 10th day of April, 1961 between THE DENVER AND RIO GRANDE WESTERN RAILROAD COMPANY, a Delaware corporation, hereinafter called "Lessor", and MINERAL COUNTY BOARD OF COUNTY COMMISSIONERS, a MUNICIPAL Corporation of Colorado, Creede, Colorado hereinafter called "Lessee," WITNESSETH, That:

Section 1. Lessor, in consideration of the rents to be paid and the agreements to be performed by Lessee, hereby leases to Lessee premises situate in the County of Mineral and State of Colorado to-wit:

(a). Description— A tract of land about 40 feet wide and 195 feet long being part of the property of the Lessor at Creede, Colorado, lying between said Lessor's Creede Branch main track and I.C.C. Track No. 39, and northerly of a line at right angles to said main track opposite Mile Post 320 plus about 3702 feet, as shown on the attached map No. 946A, containing about 7800 square feet.

(b). Term—To have and to hold said above described property from May 1, 1961 until such time as this agreement shall be terminated as hereinafter provided.

Section 2. Rental—Lessee agrees to pay to Lessor a rental of Twenty-five and no/100 DOLLARS (\$ 25.00 ) per annum , payable annually in advance.

Section 3. Purpose—Lessee agrees to use said premises for the following purpose and for no other, to-wit:  
Site for County Museum.

Section 4. Improvements—Lessee shall maintain all improvements whatsoever which on the date hereof exist upon the leased premises and it is agreed that Lessee may construct improvements upon the leased premises consistent with the purposes of this lease, provided always, however, that the style and type of construction shall be subject to approval by Lessor. All improvements on the leased premises including those which on the date hereof exist upon said premises and those hereafter constructed on said premises shall, during the continuance of this lease, be maintained and painted by the Lessee to the satisfaction of the Lessor, and at all times be kept by the Lessee in a state of good repair. All improvements heretofore or hereafter constructed upon the leased premises shall be deemed to be attached to the land and to be the property of the Lessor, subject to the conditions herein-after stated; provided, however, that if at the termination hereof Lessee shall have fully paid the rent herein reserved and shall in all other respects have faithfully kept, observed and performed the agreements hereof, then such improvements on said leased premises as may have been purchased by Lessee or erected or placed upon the leased premises by the Lessee shall upon such termination become the property of the Lessee and said Lessee may, or at the request of Lessor, shall, within thirty (30) days after termination of this lease, remove at Lessee's sole expense such improvements on said leased premises as may have been purchased by Lessee or erected or placed upon said premises by said Lessee and restore said premises to substantially their former state in accordance with the provisions of Section 21 hereof, but if Lessee shall be in default upon the termination of this lease, then such improvements on said leased premises as may have been purchased by Lessee or erected or placed upon said premises by Lessee, shall remain the exclusive property of the Lessor; provided further, however, that if at the termination hereof Lessee is in default in any of the agreements herein contained and Lessor shall nevertheless desire Lessee to remove such improvements on the leased premises as may have been purchased by Lessee or erected or placed on said premises by Lessee, and shall so notify Lessee, then all such improvements shall upon such termination become the property of Lessee and Lessee shall remove the same from the leased premises and restore said premises to substantially their former state in accordance with the provisions of Section 21 hereof.

Section 5. Charges and Taxes—Lessee shall pay all charges for electricity, gas and water used by Lessee on said premises. Lessee also agrees to pay, or cause to be paid, before the same shall become delinquent, all taxes and assessments of every nature that may be levied or assessed upon any buildings or improvements erected or placed on said premises by the Lessee. In the event the taxing authorities shall fail or refuse to assess such buildings and improvements in the name of the Lessee, or shall render tax statements for the land and the buildings and improvements in the name of the Lessor, then the Lessor shall pay the said taxes and assessments before the same become delinquent, and the Lessee agrees to reimburse the Lessor for the full amount of such taxes and assessments levied and paid with respect to such buildings and improvements within thirty days after receipt of bill therefor.

Section 6. Fire Insurance—During the continuance of this lease Lessee will cause any policies of fire insurance on the fixtures, structures and improvements upon said demised premises and the contents thereof to be so written that in the event of the loss thereof or damage thereto by fire, no insurance company shall be subrogated to the right of the Lessee or shall have recourse against the Lessor for such loss or damage.

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COLORADO  
HISTORICAL  
SOCIETY

July 1, 1999

Mr. David D. Klager, President  
Creede Historical Society  
P.O. Box 608  
Creede, CO 81130

Dear Mr. Klager:

Congratulations! Your application for a \$9,500 grant from the State Historical Fund to fund a Historic Structure Assessment of the Denver and Rio Grande Depot in Creede has been approved.

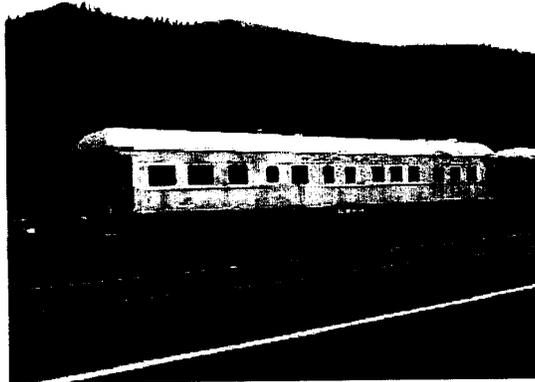
I have enclosed our most recent State Historical Fund Grants Packet, including a purchase order with instructions. The packet also includes a business card for the Technical Advisor assigned to your project. You should discuss the project with your assigned Technical Advisor before beginning work.

Again, congratulations, and we look forward to working with you.

Sincerely,

Mark Wolfe  
Projects Manager

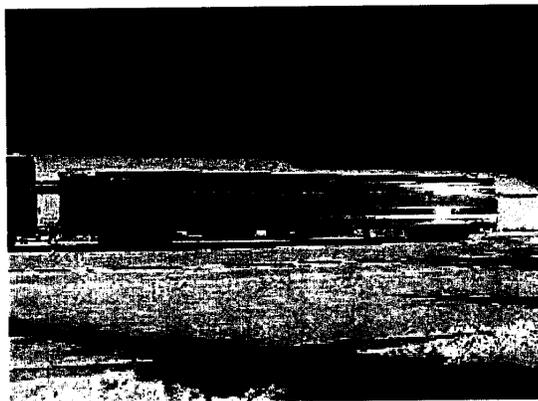
21



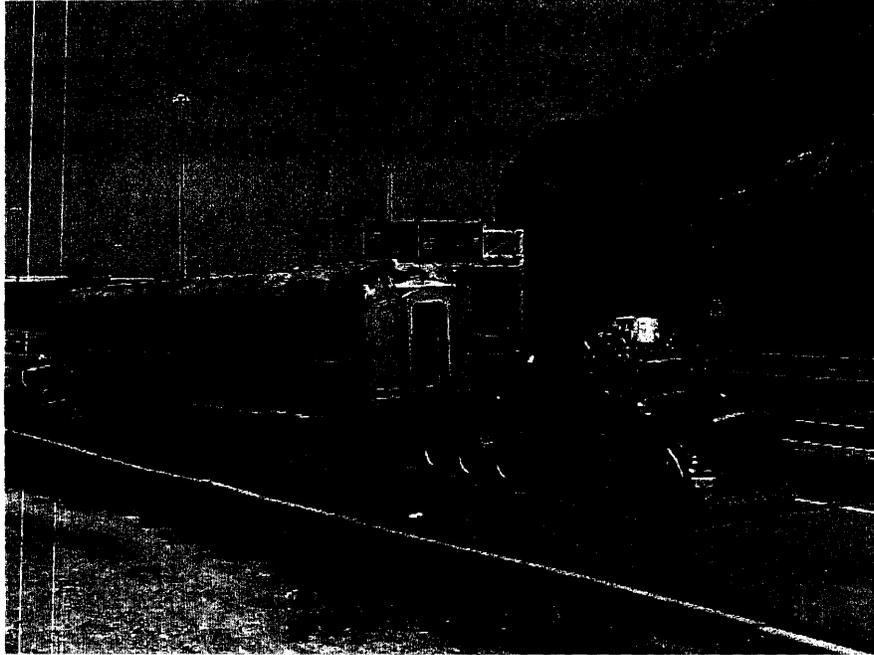
**-1924 Pullman Business Car Ex-Sante Fe #36 (Purchased, South Fork offices of the D&RG RY.)\***



**-1929 Pullman Private Car "FRIENDSHIP" (Purchased, being rebuilt.)\***



**- 1939 Budd Stainless - Round End Private / Observation Car - "Wagon Wheel Gap"  
- (#PPCX 6401)(Purchased, being rebuilt, will be used as a Parlor Car.)\***



**06-12-02 Car #36 in Denver.**