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THOMAS F. MCFARLAND

March 24, 2008

By e-filing

Anne K. Quinlan, Esq.
Acting Secretary
Surface Transportation Board
395 E Street, S.W., Suite 1149
Washington, DC 20024

Re: Docket No. AB-1014, *Denver & Rio Grande Railway Historical Foundation --
Adverse Abandonment -- in Mineral County, CO*

Dear Ms. Quinlan:

Pursuant to 49 C.F.R. Part 1114, Subpart A, the Board is respectfully requested to take official notice of the attached article from the March 20, 2008 issue of the Pueblo (CO) Chieftan, to the effect that the United States Environmental Protection Agency has proposed two sites in the Creede historic mining district for Superfund cleanup. That article bears on the potential for rail freight traffic over the Creede Branch. Rail is the preferred means for transportation of contaminated earth and rock from cleanup sites, and for transportation of clean earth and rock to those sites.

The City of Creede has opposed our previous requests for official notice as unauthorized. Contrary to the City's position, it is legally permissible and very much in the public interest to bring to the Board's attention events that occur subsequent to the close of the record and prior to decision.

Transportation of earth, rock and the products of mines should originate in Creede rather than Wason, now that the rail line has been reopened to Creede. It is ironic that the City has opposed transportation of tourist passenger trains into Creede. That transportation would be in furtherance of the City's avowed emphasis on a tourist economy. In addition, the revenues from tourist trains could be used to fund the train operation until freight transportation of earth, rock

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and ore began. Public convenience and necessity would be furthered by the revenues from tourist trains and by the freight traffic that would be made possible by those revenues.

Very truly yours,



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cc: Ronald Johnson, Esq.)
 John Heffner, Esq.) *by e-mail*
 Mr. Donald H. Shank)

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Creede mining sites pushed for EPA cleanup



**COURTESY
PHOTO/ENVIRONMENTAL
PROTECTION AGENCY**

**The Nelson Tunnel and
Commodore waste pile sites
have been proposed for EPA
Superfund cleanup.**

By MATT HILDNER
THE PUEBLO CHIEFTAIN

DENVER - The U.S. Environmental Protection Agency proposed the addition of two sites in the Creede historic mining district to the national priorities list Wednesday.

The proposal, which focuses on the Nelson Tunnel and the Commodore waste rock pile, brings the two a step closer to federal cleanup money from the Superfund program and could be finalized as soon as September.

The Nelson Tunnel, located roughly one mile north of Creede, drains five mines in the historic mining district before emptying into West Willow Creek. It is the largest contributor of cadmium, lead and zinc to the stream.

The waste rock pile is immediately up slope from the pile and surrounds the tunnel's mouth. The EPA regards the pile and the tunnel as one cleanup site for the proposed listing.

The proposal for listing follows requests last year by the town and Mineral County

for the site's inclusion on the list and another from Gov. Bill Ritter in January.

Since 1999, the Creede-based Willow Creek Reclamation Committee had conducted cleanup of much of the mining district with the hope of avoiding any Superfund designation for the area. But the absence of federal "Good Samaritan" legislation that would limit the liability of private groups in cleaning up highly polluted sites kept the committee from cleaning up the tunnel and the pile.

"Because of the complexity and cost of cleaning up the contamination coming from the Nelson Tunnel, adding this site to the national priorities list is one of the few viable options that will ensure the work gets done," said Gwen Christiansen, an environmental scientist and engineer for EPA.

Christiansen also said any Superfund cleanup of the tunnel and pile would protect historic structures, a goal heavily emphasized in local cleanup efforts.

A biological assessment of the Willow Creek watershed found that the zinc, cadmium and lead in the watershed exceeded dietary and aquatic water standards for fish and birds.

The EPA also found elevated levels of those three contaminants plus arsenic in the waste rock pile. The agency fears that another flood, such as the one in 2005 that washed part of the pile downstream, might contaminate the town of Creede.

While the agency considers formal listing of the sites, it has also undertaken planning for work that would stabilize the pile. That work will go forward regardless of the listing's fate, agency officials said at a meeting in Creede last month.

Peggy Linn, community involvement coordinator for the EPA, said the agency could finalize the listing proposal as early as September.

Should the agency's analysis extend beyond that time frame, the next opportunity to finalize it would come six months after September.

"If there were concerns we needed to check into that took some extra time, it could be pushed back to the next opportunity to be published in the Federal Register," she said.

A 60-day comment period opened along with the proposed listing. The public can comment until May 19 by following online instructions.

Public comment may also be submitted via regular mail to the Docket Coordinator, Headquarters, U.S. Environmental Protection Agency, CERCLA Docket Office (Mail Code - 5305T), 1200 Pennsylvania Ave. NW, Washington, D.C., 20460.

Information on the proposed listing can be found at the Creede Town Hall, the

EPA's Superfund Records Center in Denver or online.

ON THE NET

To make public comment: <http://www.regulations.gov>

EPA Superfund program:

<http://www.epa.gov/region8/superfund/co/nelsoncommodore>

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